

PRE-OPTION AGREEMENT

This Pre-Option Agreement (this "Agreement"), entered into on this 11/26, 2010, is by and among **Bruce H. Patterson, Trustee of the Patterson Nominee Trust**, u/d/t dated April 4, 2001, recorded with the Hampshire County Registry of Deeds in Book 6217, Page 137 (the "Owner"), having an address of 340 Montague Road, Amherst, MA 01002, and the **Town of Amherst**, a Massachusetts municipal corporation acting by and through its Town Manager, having an address of 4 Boltwood Avenue, Amherst, MA 01002, together with its assignee or nominee (the "Town").

RECITALS

The Owner is the owner of three (3) parcels of land located on Montague Road, Amherst, Massachusetts, together with any and all rights, privileges and easements benefiting, belonging or appurtenant thereto and all existing improvements thereon (collectively, the "Premises"), described as follows: (a) a parcel identified by the Assessors as Lot 2C-3, containing 38.97 acres and described as Tract Two ("Lot 1") in a deed recorded with the Hampshire District Registry of Deeds in Book 6217, Page 146 (the "Deed"); and (b) a parcel identified by the Assessors as Lot 2C-9, containing 21.5 acres, more or less, and described as Parcel No. 1 of Tract Five in the Deed ("Lot 2"), and (c) a parcel identified by the Assessors as Lot 2C-30 containing 0.165 acres, more or less, and described as Parcel No. 2 of Tract 5 in the Deed ("Lot 3"). Excluded from the Premises are the parcels of land shown as "Excluded" on the attached sketch plan, said excluded parcels being identified by the Assessors as Lot 2C-6, Lot 2C-21, Lot 2C-24, Lot 2C-29, Lot 23-33, and a portion of Lot 2C-3 (the "Excluded Parcels").

The Town is interested in improving and developing the Premises to stimulate and promote the economic vitality of the Town, and has requested that the Owner grant the Town the right to use the Premises for such purposes. The Owner does not wish to sell the Premises, but is willing to lease the Premises to the Town under a long-term ground lease.

In order to allow the Town to assess the feasibility of entering into a long-term ground lease, the Town needs to conduct certain inspections of the Premises. Prior to granting the Town the right to access the Premises and conduct such inspections, the Owner desires to have the Town execute an option agreement on the same terms as the Option Agreement (the "Option Agreement") attached to this Agreement as Appendix A, and pay the Owner the Initial Payment (defined below).

In order to allow the Town to execute the Option Agreement and make the Initial Payment, the Town needs to obtain approval for such actions at a Town Meeting and comply with other statutory and regulatory requirements.

TERMS

Now, therefore, in consideration paid of One Dollar (\$1.00) and other good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The Town shall have the right to enter into the Option Agreement attached hereto as Appendix A (with the only change being to the insertion of the date of the execution thereof, the "Option") if the following preconditions (collectively, the "Preconditions") and other terms of this Agreement are satisfied:

- (a) Authorization. The Amherst Town Meeting authorizes the Town Manager to enter into the Option Agreement, and appropriates funds therefor and a referendum petition is not timely filed. This Precondition must be evidenced by a copy of the Town Meeting vote, certified by the Town Clerk. The Town Manager may record the certified Town Meeting vote with the Notice of Option and the SNDA's, as discussed below
- (b) Uniform Procurement Act. The Town has fully complied with the provisions of G.L. c.30B (the Uniform Procurement Act) for acquisition of real property determined to be unique, and at least thirty (30) days have elapsed since the date of publication of the Town's determination of uniqueness in the Central Register, without objection to such determination being made during such thirty (30)-day period. This Precondition must be evidenced by a copy of the notice filed with the Central Register, bearing the date of publication.
- (c) Notice of Option. The parties have agreed to the terms and form of a mutually satisfactory recordable Notice of Option.
- (d) Ground Lease. The parties have agreed to the terms and form of a mutually satisfactory ground lease, including a Notice of Lease. The parties have set forth their current understanding of the terms of the Ground Lease in Appendix B (the "Ground Lease").
- (e) Consent Agreement. The Owner has obtained an agreement from the holders of any and all mortgages or other security interests or liens then encumbering the Premises (referred to herein as the "Mortgagees"), wherein such Mortgagees agree (i) to subordinate their liens to the Town's Option and that the Town's Option shall survive foreclosure of their liens, and (ii) subordinate their liens to the Ground Lease if and when the Option is exercised, which agreement shall be substantially in the same form as the recordable Consent Agreement attached hereto as Appendix C (the "Consent Agreement").

The parties shall use diligent and good faith efforts to satisfy the Preconditions, provided however that neither of the parties is required to negotiate the terms and form of the Ground Lease in good faith.

2. If the Preconditions are satisfied on or before September 1, 2010 (the "Precondition Date"), then the Town may, at its election, give written notice to the Owner of the Town's intent to enter into the Option (the "Option Notice") by sending written notice thereof to the Owner and Marsh, Moriarty, Ontell & Golder, P.C. (the "Escrow Agent") on or before the Precondition Date and enclosing in the Option Notice to the Escrow Agent (a) a check for Forty Thousand Dollars (\$40,000.00) (the "Initial Payment") made payable to the Owner; (b) two

duplicate executed originals of the Option; (c) an executed original of the Notice of Option; (d) two duplicate originals of the Ground Lease; and (e) an executed original of the Notice of Lease (collectively, the "Town's Option Documents"), with a copy to the Owner. The Owner shall, within ten days of the date of the Option Notice (the "Owner's Delivery Date"), provide the Escrow Agent, in escrow, the following signed documents: (a) two duplicate executed originals of the Option; (b) an executed original of the Notice of Option; (c) two duplicate originals of the Ground Lease; (d) an executed original of the Notice of Lease; (e) an original of the mutually satisfactory Notice of Lease and the Trustees' Certificate; and (f) originals of the Consent Agreements, signed by all Mortgagees then having an interest in the Premises or any part thereof, if any, (collectively, the "Owner's Option Documents"), with a copy to the Town. The Escrow Agent shall hold the Option Documents in escrow in accordance with the terms of the Escrow Agreement set forth in Appendix D, attached hereto and incorporated herein. The Town is solely responsible for the Escrow Agent's fees.

3. The Escrow Agent shall, within five (5) business days from the Owner's Delivery Date, give the Owner the check for the Initial Payment and one fully executed duplicate original of the Option, and give the Town one fully executed duplicate original of the Option, the original fully executed Notice of Option, and the originals Consent Agreements. The Escrow Agent shall retain the original signed Ground Lease and Notice of Lease until the Town has exercised its Option, as set forth more particularly in the Escrow Agreement. The date of the Town's signature of the Option shall be referred to herein as the "Option Date." The Town Manager may record the Notice of Option, together with the certified Town Meeting vote referenced in Section 1(a) above and the Consent Agreements.

4. The term of this Agreement shall commence on the date hereof and terminate at 5 p.m. on the Precondition Date if the Town does not exercise the Option in accordance with the terms of this Agreement.

5. Neither party may assign its rights under this Agreement without the prior written consent of the other party, which may be withheld in the other party's sole discretion. This Agreement shall be binding upon the Owner and the Owner's heirs, devisees, executors, administrators, successors, and assigns, and upon any person acquiring any interest in the Premises as a result of insolvency, bankruptcy, the foreclosure of any mortgage or any other involuntary transfer or assignment, or by death, or otherwise by operation of law.

6. All notices, claims, certificates, requests, demands and other communications ("communication") hereunder will be in writing and will be deemed to have been duly given when the communication is personally delivered or delivered by messenger, deposited with Federal Express or other recognized overnight courier, or mailed by registered or certified mail, postage prepaid, to the parties at the address set forth below:

If to the Town:

Town of Amherst
4 Boltwood Avenue
Amherst, MA 01002
Attention: Town Manager

with a copy to:

Kopelman and Paige, P.C.
101 Arch Street
Boston, MA 02110
Attention: Shirin Everett, Esq.

If to the Owner:

Bruce Patterson, Trustee
Patterson Nominee Trust
28 Kingman Road
Amherst, MA 01002

with a copy to:

Bulkley, Richardson and Gelinas, LLP
1500 Main Street, Suite 2700
P.O. Box 15507
Springfield, MA 01115-5507
Attn: Scott W. Foster, Esq.

or to such other address as the person to whom notice is to be given may have furnished to the other in writing in accordance herewith. A communication given by any other means shall be deemed duly given when actually received by the addressee.

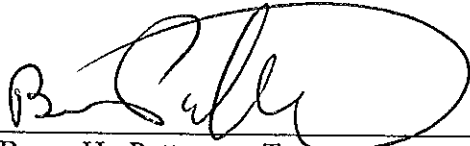
7. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such illegality or unenforceability shall not affect any other provisions of this Agreement and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

8. This Agreement is governed by the laws of the Commonwealth of Massachusetts. Any action to enforce the terms of this Agreement may only be commenced in the appropriate court in the Commonwealth of Massachusetts.

9. During the term of this Agreement, the Owner shall deal exclusively with the Town and will not solicit, initiate, or knowingly encourage discussions or negotiations regarding any proposals or offers from any individual, corporation, or other entity relating to any sale, lease, exchange, transfer or other disposition of all or any part of the Premises.

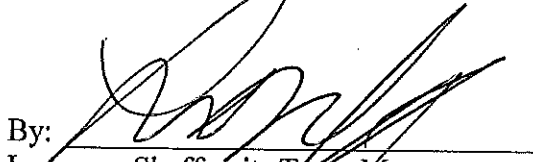
This Agreement is executed under seal as of the date first set forth above.

OWNER:



Bruce H. Patterson, Trustee
Patterson Nominee Trust

TOWN OF AMHERST



By: Laurence Shaffer, its Town Manager

January 25, 2010


390645.2/AMHR/0025

TRUSTEE'S CERTIFICATE

Bruce H. Patterson, Trustee of the Patterson Nominee Trust, u/d/t dated April 4, 2001, recorded with the Hampshire County Registry of Deeds (the "Registry") in Book 6217, Page 137 (the "Trust"), hereby states under oath:

1. I and Arlette S. Patterson are the only Trustees of the Trust.
2. The Trust has not been revoked or terminated and all amendments of the Trust have been recorded with said Deeds.
3. No beneficiary of this Trust is a minor or incompetent and this Trust does not constitute all or substantially all of the assets of any corporate beneficiary. No beneficiary is a personal representative of an estate subject to estate tax liens.
4. That we have been authorized by all of the beneficiaries to enter into a Pre-Option Agreement with the Town of Amherst, authorizing the Trustee(s) to grant the Town an option to lease the following described premises: Three (3) parcels of land located on Montague Road, Amherst, MA 01002, together any and all appurtenances, rights, privileges and easements benefiting, belonging or pertaining thereto and all existing improvements thereon (collectively, the "Premises"), described as follows: (a) a parcel identified by the Assessors as Lot 2C-3, containing 38.97 acres and described as Tract Two in a deed recorded with the Hampshire District Registry of Deeds in Book 6217, Page 146 (the "Deed"), (b) a parcel identified by the Assessors as Lot 2C-9, containing 21.5 acres, more or less, and described as Parcel No. 1 of Tract Five in the Deed, and (c) a parcel identified by the Assessors as Lot 2C-30 containing 0.165 acres, more or less, and described as Parcel No. 2 of Tract Five in the Deed. Excluded from the Premises are the parcels of land shown as "Excluded parcels" on the attached sketch plan, said excluded parcels being identified by the Assessors as Lot 2C-6, Lot 2C-21, Lot 2C-24, Lot 2C-29, Lot 23-33, and a portion of Lot 2C-3.
5. In accordance with the terms of the Trust, I have the authority, signing alone, to bind the Trust and the beneficiaries.

WITNESS my hand and seal this 26 day of January, 2010.



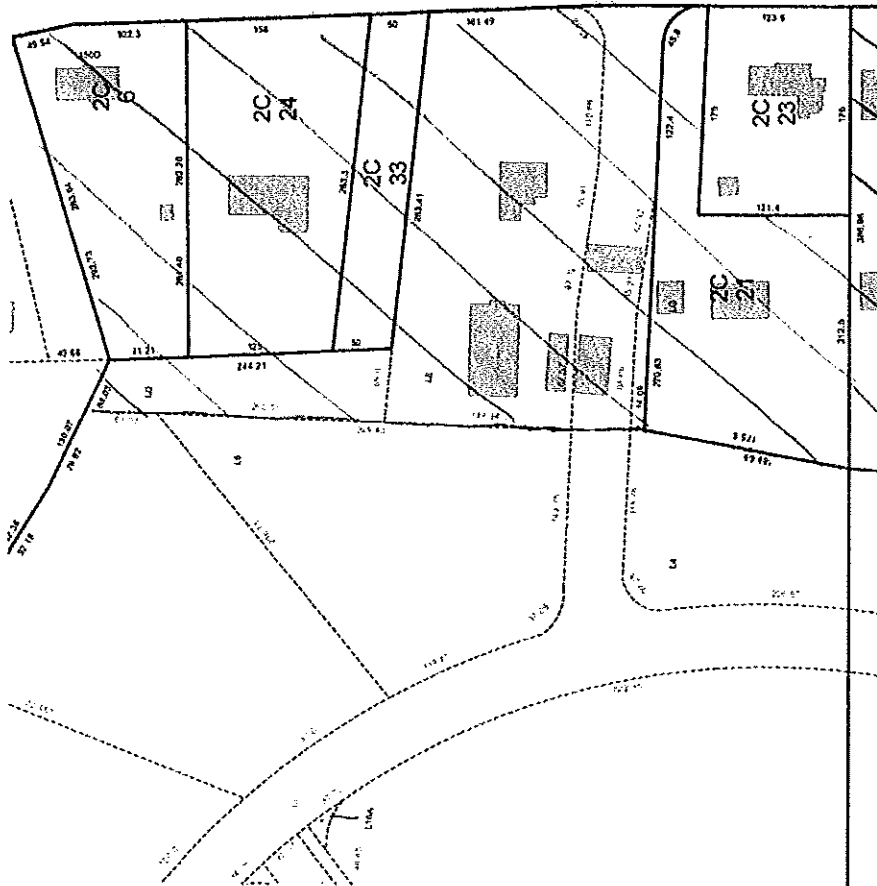
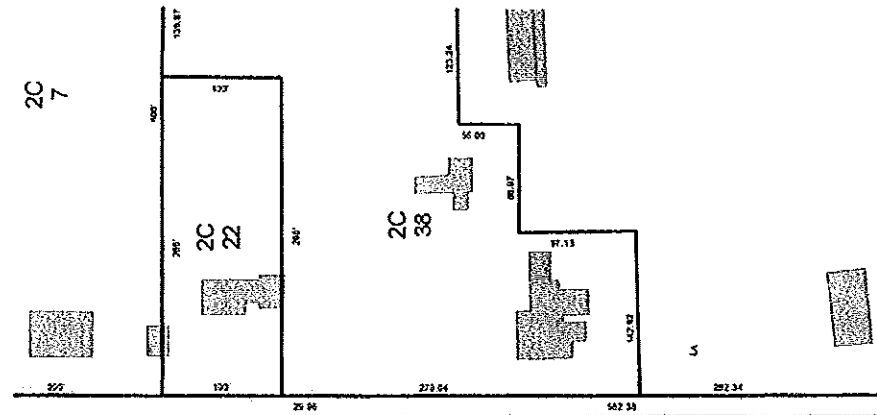
Bruce H. Patterson, Trustee
Patterson Nominee Trust

COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss

On this 26th day of January, 2010, before me, the undersigned notary public, personally appeared Bruce H. Patterson, proved to me through satisfactory evidence of identification, which was driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as Trustee of Patterson Nominee Trust.

Susan Audette
Notary Public, JP
My Commission Expires: 11-16-12



APPENDIX A

OPTION AGREEMENT

This Option Agreement (this "Option Agreement"), entered into on this ____ day of _____, 20____ (the "Option Date"), is by and among **Bruce H. Patterson and Arlette S. Patterson, Trustees of the Patterson Nominee Trust**, u/d/t dated April 4, 2001, recorded with the Hampshire County Registry of Deeds in Book 6217, Page 137 (the "Owner"), having an address of 340 Montague Road, Amherst, MA 01002, and the **Town of Amherst**, a Massachusetts municipal corporation acting by and through its Town Manager, having an address of 4 Boltwood Avenue, Amherst, MA 01002, together with its assignee or nominee (the "Town").

RECITALS

The Owner and the Town are or were parties to a Pre-Option Agreement dated _____, 2010, (the "Pre-Option Agreement"), incorporated herein by reference, whereby the Town had the right to enter into this Option Agreement if certain conditions and other terms of the Pre-Option Agreement (the "Preconditions") were satisfied on or before September 1, 2010 and such Preconditions have been so met.

PREMISES

The Owner is the owner of three (3) parcels of land located on Montague Road, Amherst, Massachusetts, together with any and all rights, privileges and easements benefiting, belonging or appurtenant thereto and all existing improvements thereon (collectively, the "Premises"), described as follows: (a) a parcel identified by the Assessors as Lot 2C-3, containing 38.97 acres and described as Tract Two ("Lot 1") in a deed recorded with the Hampshire District Registry of Deeds (the "Registry") in Book 6217, Page 146 (the "Deed"); and (b) a parcel identified by the Assessors as Lot 2C-9, containing 21.5 acres, more or less, and described as Parcel No. 1 of Tract Five in the Deed ("Lot 2"), and (c) a parcel identified by the Assessors as Lot 2C-30 containing 0.165 acres, more or less, and described as Parcel No. 2 of Tract 5 in the Deed ("Lot 3"). Excluded from the Premises are the parcels of land shown as "Excluded" on the attached sketch plan, said excluded parcels being identified by the Assessors as Lot 2C-6, Lot 2C-21, Lot 2C-24, Lot 2C-29, Lot 23-33, and a portion of Lot 2C-3 (the "Excluded Parcels").

TERMS

Now, therefore, in consideration paid of Forty Thousand Dollars (\$40,000.00), the parties agree as follows:

1. The Owner hereby grants an irrevocable option (the "Option") to enter into the Ground Lease to the Town pursuant to the terms of this Option Agreement. "Ground Lease" means a ground lease in the form attached hereto as Appendix A, with the only change from this form being the insertion of the date of execution thereof. After the Option Date, the Town may record this Option Agreement or a notice of this Option Agreement in the Registry. As of the date of this Option Agreement, each of the Owner and the Town have provided two duplicate signed originals of the Ground Lease, an executed original of the Notice of Lease and other

related documents as set forth in the Pre-Option Agreement (the "Lease Documents") to Marsh, Moriarty, Ontell & Golder, P.C. (the "Escrow Agent"). The Escrow Agent shall hold the Lease Documents until the Town has exercised its Option, all as set forth more particularly herein and in the Escrow Agreement attached hereto as Appendix B.

2. During the Term of this Option Agreement, the Owner shall not sell, exchange, transfer, convey, mortgage, encumber or otherwise dispose of all or any portion of the Premises (each, a "Transfer") without the Town's written consent, which shall not be unreasonably withheld for institutional mortgagees that sign the Subordination Non-Disturbance and Attornment Agreement substantially in the same form as the document attached hereto as Appendix C and incorporated herein (the "SNDA"), subordinating to this Option Agreement and the Ground Lease, if exercised, and which shall not be unreasonably withheld for easements necessary for the Owner's use and enjoyment of the Premises. Prior to any Transfer, the Owner shall send the fully executed SNDA to the Escrow Agent.

3. This Option Agreement shall commence on the Option Date and shall terminate on the first anniversary of the Option Date (the "Initial Term"), provided that if the Town is not then in default of this Option Agreement beyond any applicable cure period, the Town may extend the term of this Option Agreement for two periods of one (1) year each (each an "Extended Term") by giving written notice thereof to the Owner at least thirty (30) days prior to the termination of the Initial Term or the first Extended Term, as the case may be (the "Extension Notice Date"), which notice shall include a check for Forty Thousand and 00/100 Dollars (\$40,000.00) for each such Extension Term (each an "Extension Payment") made payable to the Owner. The Initial Term and, if exercised, the Extended Term(s), are referred to as the "Term."

4. The Owner shall have no obligation to refund the Initial Payment or any Extended Payment if the Town does not enter into the Ground Lease.

5. During the Term, the Town and its employees, agents, contractors, successors, and assigns may, upon at least forty-eight (48) hours prior notice to the Owner (which notice may be oral), enter the Premises at any time and from time to time for the purpose of surveying the Premises, taking earth samples, wetlands delineation, making borings, and performing chemical, engineering, mechanical or any other tests that may be deemed advisable by the Town, all at the Town's sole cost and expense. Such entry shall be at the Town's sole risk and the Town shall, to the extent permitted by law, defend, hold harmless and indemnify the Owner from and against any claim for injuries or property damage arising out of the Town's use of the Premises for the purposes set forth herein and shall cause the Owner to be listed as an additional insured on the Town's general liability insurance policy, which liability insurance shall have limits of at least \$1 million per occurrence and at least \$2 million annual aggregate. The Town shall provide a copy of such policy at the request of the Owner. The Town shall, upon the completion of such activities, restore the Premises to the condition prior to such entry. At the termination of this Option Agreement, the Town shall deliver copies of any reports, analyses, and studies relating to the Premise prepared by or for the Town or its agents to the Owner at no cost to the Owner. Notwithstanding anything herein to the contrary, the foregoing right to access the Premises shall be limited to those individuals whose access to the Premises is for the purpose of accomplishing the tests set forth above and shall not extend to others except that Town-designated employees

may accompany any consultants or contractors during the performance of such tests. The Town may have pre-arranged guided walking tours of the Premises limited to one (1) per the Initial Term and one (1) per each Extended Term. The timing of said tours shall be approved in advance by the Owner.

6. If the Town is not then in default of this Option Agreement beyond any applicable cure period, the Town may exercise the Option by giving notice thereof to the Owner and the Escrow Agent prior to the expiration of the Term of this Option Agreement (the "Exercise Notice"), and sending the following documents to the Escrow Agent (the Exercise Notice and the following documents are referred to, collectively, as the "Town's Delivery Documents"), with a copy to the Owner:

a) two duplicate originals of the executed Ground Lease (in the same form as the Ground Lease attached hereto as Appendix A, with the only change from this form being to the date of execution) with an indicated effective and commencement date not less than 15 days and not more than 60 days from the date of the Exercise Notice (the "Effective Date"),

b) an executed original of the Notice of Ground Lease for recording with the Registry,

c) the payment of the first month's Base Rent under the Ground Lease, made payable to the Owner, and

d) the delivery of any additional item as set forth in the Ground Lease.

7. Provided that the Town exercises its Option in accordance with this Agreement and the Escrow Agent has received from the Owner original SNDA's signed by any and all Mortgagees having an interest in the Premises as of the date of the Exercise Notice, the Escrow Agent shall, within five (5) business days of receiving the Town's Delivery Documents, send the Owner a fully executed original of the Ground Lease and the check for the first month's Base Rent, and send the Town fully executed originals of the Ground Lease, the Notice of Lease, the Trustees' Certificate, and the SNDA's.

8. This Option Agreement shall terminate if the Town does not exercise its Option in accordance with the terms of this Option Agreement.

9. All mortgages or other security agreements encumbering the Premises, or any part thereof, whether existing as of the date of this Option Agreement or subsequent thereto, shall be subject and subordinate to this Option Agreement and the Ground Lease.

10. Notwithstanding anything herein to the contrary, the Town shall not be in default of its obligations under this Option until and unless the Town fails to cure any such default within thirty (30) days from the date on which the Owner shall have given the Town written notice, specifying the failure, or, if such default cannot reasonably be completed within said thirty (30) day period, so long as the Town commences such cure within said thirty (30) day period and thereafter completes it with diligence.

Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such illegality or unenforceability shall not affect any other provisions of this Option Agreement and this Option Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

17. This Option Agreement is governed by the laws of the Commonwealth of Massachusetts. Any action to enforce the terms of this Option Agreement may only be commenced in the appropriate court in the Commonwealth of Massachusetts.

18. Capitalized terms not otherwise defined herein shall be as defined in the Ground Lease.

This Option Agreement is executed under seal as of the date first set forth above.

OWNER:

Bruce H. Patterson, Trustee
Patterson Nominee Trust

TOWN OF AMHERST

By: _____
Laurence Shaffer, its Town Manager

390646/AMHR/0025

NOTICE OF OPTION TO LEASE

Notice is hereby given of the following described Option to enter into a ground lease:

OPTION EXECUTION DATE: _____

OWNER:

Bruce H. Patterson and Arlette S. Patterson,
Trustees of the Patterson Nominee Trust, u/d/t dated
April 4, 2001, recorded with the Hampshire County
Registry of Deeds in Book 6217, Page 137
340 Montague Road
Amherst, MA 01002

OPTION HOLDER:

Town of Amherst
4 Boltwood Avenue
Amherst, MA 01002

SUBJECT PREMISES:

Three (3) parcels of land located on Montague Road, Amherst, MA 01002, together any and all appurtenances, rights, privileges and easements benefiting, belonging or pertaining thereto and all existing improvements thereon (collectively, the "Premises"), described as follows: (a) a parcel identified by the Assessors as Lot 2C-3, containing 38.97 acres and described as Tract Two in a deed recorded with the Hampshire District Registry of Deeds in Book 6217, Page 146 (the "Deed"), (b) a parcel identified by the Assessors as Lot 2C-9, containing 21.5 acres, more or less, and described as Parcel No. 1 of Tract Five in the Deed, and (c) a parcel identified by the Assessors as Lot 2C-30 containing 0.165 acres, more or less, and described as Parcel No. 2 of Tract Five in the Deed. Excluded from the Premises are the parcels of land shown as "Excluded parcels" on the attached sketch plan, said excluded parcels being identified by the Assessors as Lot 2C-6, Lot 2C-21, Lot 2C-24, Lot 2C-29, Lot 23-33, and a portion of Lot 2C-3.

INITIAL TERM OF OPTION: One year, commencing on _____, 2010
("Commencement Date") and terminating on
_____, 2011 ("Termination Date")

EXTENSION OF OPTION: Two (2) extension terms of one (1) year each
(maximum option term of three (3) years), to be exercised
by the Town upon payment to the Owner

TERMINATION OF OPTION: To be exercised anytime after the expiration of the Initial
Term, as set forth more particularly in the Lease

RIGHT OF FIRST REFUSAL: As set forth more particularly in the Lease

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this instrument as a sealed instrument as of the day and year first written above.

LANDLORD:

Bruce H. Patterson, Trustee
Patterson Nominee Trust

Arlette S. Patterson, Trustee
Patterson Nominee Trust

TENANT:

TOWN OF AMHERST,
By its Town Manager

COMMONWEALTH OF MASSACHUSETTS

_____, ss

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared Bruce H. Patterson, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as Trustee of Patterson Nominee Trust.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

_____, SS

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, Town Manager of the Town of Amherst, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the Town of Amherst.

Notary Public
My Commission Expires:

390532/AMHR/0025

TRUSTEES' CERTIFICATE

Bruce H. Patterson and Arlette S. Patterson, Trustees of the Patterson Nominee Trust, u/d/t dated April 4, 2001, recorded with the Hampshire County Registry of Deeds (the "Registry") in Book 6217, Page 137 (the "Trust"), hereby state under oath:

1. We are the sole Trustees of the Trust.
2. The Trust has not been revoked or terminated and all amendments of the Trust have been recorded with said Deeds.
3. No beneficiary of this Trust is a minor or incompetent and this Trust does not constitute all or substantially all of the assets of any corporate beneficiary. No beneficiary is a personal representative of an estate subject to estate tax liens.
4. We have been authorized by all of the beneficiaries to grant the Town of Amherst on option to lease, for a total term not exceeding ninety-five (95) year and on such other terms and conditions as the Trustees deem appropriate, the following described premises: Three (3) parcels of land located on Montague Road, Amherst, MA 01002, together any and all appurtenances, rights, privileges and easements benefiting, belonging or pertaining thereto and all existing improvements thereon (collectively, the "Premises"), described as follows: (a) a parcel identified by the Assessors as Lot 2C-3, containing 38.97 acres and described as Tract Two in a deed recorded with the Hampshire District Registry of Deeds in Book 6217, Page 146 (the "Deed"), (b) a parcel identified by the Assessors as Lot 2C-9, containing 21.5 acres, more or less, and described as Parcel No. 1 of Tract Five in the Deed, and (c) a parcel identified by the Assessors as Lot 2C-30 containing 0.165 acres, more or less, and described as Parcel No. 2 of Tract Five in the Deed. Excluded from the Premises are the parcels of land shown as "Excluded parcels" on the attached sketch plan, said excluded parcels being identified by the Assessors as Lot 2C-6, Lot 2C-21, Lot 2C-24, Lot 2C-29, Lot 23-33, and a portion of Lot 2C-3. Said option shall be for a period of one (1) year from the date that the Notice of Option to Lease is recorded with the Hampshire Registry of Deeds, and the Town shall have the right to extend the option for two (2) periods of one (1) year each, for a total maximum option term of three (3) years.

WITNESS our hands and seals this _____ day of _____, 20____.

Bruce H. Patterson, Trustee
Patterson Nominee Trust

Arlette S. Patterson, Trustee
Patterson Nominee Trust

COMMONWEALTH OF MASSACHUSETTS

_____, ss

On this ___ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose as Trustee(s) of Patterson Nominee Trust.

Notary Public
My Commission Expires:

APPENDIX B

GROUND LEASE

This Ground Lease (this "Lease"), dated as of _____, 20____, is by and between **Bruce H. Patterson and Arlette S. Patterson, Trustees of the Patterson Nominee Trust**, u/d/t dated April 4, 2001, recorded with the Hampshire County Registry of Deeds in Book 6217, Page 137 ("Landlord"), having an address of 340 Montague Road, Amherst, MA 01002, and the **Town of Amherst**, a Massachusetts municipal corporation acting by and through its Town Manager, having an address of 4 Boltwood Avenue, Amherst, MA 01002, together with its assignee or nominee ("Tenant"). The term "Effective Date" as used in this Lease shall mean the first date upon which both Landlord and Tenant have executed a final counterpart of this Lease and delivered the same to the other party.

Section 1. Premises.

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, three (3) parcels of land located on Montague Road, Amherst, Massachusetts, together any and all appurtenances, rights, privileges and easements benefiting, belonging or pertaining thereto and all existing improvements thereon (collectively, the "Premises"), described as follows: (a) a parcel identified by the Assessors as Lot 2C-3, containing 38.97 acres and described as Tract Two ("Lot 1") in a deed recorded with the Hampshire District Registry of Deeds (the "Registry") in Book 6217, Page 146 (the "Deed"), (b) a parcel identified by the Assessors as Lot 2C-9, containing 21.5 acres, more or less, and described as Parcel No. 1 of Tract Five in the Deed ("Lot 2"), and (c) a parcel identified by the Assessors as Lot 2C-30 containing 0.165 acres, more or less, and described as Parcel No. 2 of Tract Five in the Deed ("Lot 3"). Excluded from the Premises are the parcels of land shown as "Excluded" on the attached sketch plan, said excluded parcels being identified by the Assessors as Lot 2C-6, Lot 2C-21, Lot 2C-24, Lot 2C-29, Lot 23-33, and a portion of Lot 2C-3.

Section 2. Term.

2.1. Term. The term of this Lease shall begin on the _____, 20____ (the "Commencement Date") and shall continue until the date that is twenty-five (25) years thereafter (plus any number of days required to have the Term of the Lease expire on the last day of a month), all subject to all terms and conditions of this Lease (the "Initial Term") (the Initial Term, together with any Extension Terms described below, is referred to as the "Term").

2.2. Extension Terms. Tenant may extend the Term of this Lease for seven (7) extension terms of ten (10) years each (each, an "Extension Term"), upon all of the terms set forth in this Lease. Tenant may elect to exercise an Extension Term by giving Landlord written notice of each such election ("Extension Notice") at least ninety (90) days prior to the expiration of the then-current Term. Notwithstanding anything to the contrary in this Lease, Tenant's right to extend the Term of this Lease hereunder shall not terminate or be extinguished due to Tenant's failure to give Landlord an Extension Notice as herein provided unless and until (i) Landlord shall have notified Tenant and the Leasehold Mortgagee (defined below) of such failure; and (ii)

Tenant shall have failed to exercise the Extension Term on behalf of Tenant within ten (10) days of such notice from Landlord.

Section 3. Permitted Uses, Design Plans.

Permitted Uses. Tenant may only use the Premises as a Research Technology Park, as that term is defined in the Town's Zoning Bylaws, or any other use permitted under the Town's Zoning Bylaws for the Premises, by right or by obtaining any zoning relief, as of the date of this Ground Lease, provided such use does not require a permit from the Massachusetts Department of Environmental Protection pursuant to 310 CMR 19.000 *et seq.* as amended.

Section 4. Rent.

4.1. Triple Net Lease. The Ground Lease shall be an absolute triple net lease, and Tenant shall have the sole responsibility with regard to maintaining and operating the Premises. All payments of rent shall be absolutely net to Landlord so that the Ground Lease shall yield to Landlord the Rent herein specified in each year during the Term of the Ground Lease free of any taxes, assessments, charges, impositions or deductions of any kind charged, assessed or imposed on or against the Premises and so that all costs, expenses and obligations of every kind and nature whatsoever, including without limitation, real estate taxes, personal property taxes, insurance, maintenance of buildings and roads, relating to the Premises and any improvements thereon shall be paid by Tenant.

4.2. Base Rent. Commencing on the Commencement Date, the annual rent payable under the Ground Lease shall be Four Hundred Fifteen Thousand and 00/100 Dollars (\$415,000.00) for the first lease year (the "Base Rent"), payable in advance in equal monthly installments on the first of each month. If the Commencement Date shall be on any day other than the first day of a calendar month, Base Rent and other charges for such month shall be pro rated on a per diem basis. The Base Rent, together with all other charges and fees owed by Tenant to Landlord from time to time under this Lease, are referred to, collectively, as the "Rent." Within ten (10) days after the Commencement Date the parties shall memorialize the date constituting the Commencement Date by mutually executing and delivering a "Commencement Date Certificate" in a form supplied by and satisfactory to Tenant.

4.3. Annual Increases. On the first anniversary of the Commencement Date, the Base Rent shall be adjusted so as to equal the product of the Base Rent on the Commencement Date multiplied by a fraction, the numerator of which is the "Consumer Price Index --all items (1982-84=100) for All Urban Consumers, U.S. City Average," issued by the Bureau of Labor Statistics of the United States Department of Labor (the "CPI") as of the first day of the first month immediately preceding the first anniversary of the Commencement Date and the denominator of which is the CPI as of July 1, 2009, provided however that the increase shall not exceed an annualized rate of 2% during the period from July 1, 2009 through the Commencement Date. On each anniversary of the Commencement Date thereafter (each an "Adjustment Date"), the Base Rent hereunder shall adjusted so as to equal the product of the then-applicable Base Rent multiplied by a fraction, the numerator of which is the "Consumer Price Index --all items (1982-84=100) for All Urban Consumers, U.S. City Average," issued by the Bureau of Labor Statistics

of the United States Department of Labor (the "CPI") as of the first day of the first month immediately preceding the Adjustment Date and the denominator of which is the CPI as of the date twelve (12) months prior to such Adjustment Date. Following each Adjustment Date, the term Base Rent hereunder shall be deemed to refer to the Base Rent as hereby adjusted pursuant to the terms of this Lease. Notwithstanding the foregoing two sentences, the Base Rent following any such annual adjustment shall not be less than the Base Rent for the twelve months preceding such adjustment. In addition, Tenant shall pay Landlord thirty percent (30%) of all Additional Compensation (defined below) received by Tenant for a Transfer (defined below).

4.4. Additional Building Increases. If the interior space of buildings constructed on the Premises exceeds the Rent Threshold Space (defined below in Section 8.1), then the Base Rent shall be adjusted so as to equal the product of the Base Rent (as adjusted for any CPI increase in the preceding section) times a fraction, the numerator of which is the total interior square footage, in the aggregate, of all buildings on the Premises and the denominator of which shall be the Rent Threshold Space.

4.5. Late Fee. If Tenant fails to pay any installment of Base Rent or any other amount that may be due to Landlord under the terms of this Lease within thirty (30) days of the date such Base Rent or other amount is due, Tenant shall owe Landlord a late fee of two percent (2%) of the late installment.

Section 5. Taxes.

5.1. Taxes. During the Term of this Ground Lease, Landlord shall not be responsible for any real estate taxes, or assessments levied or assessed against buildings and improvements located on or constructed on the Premises or levied or assessed upon the land constituting the Premises. Tenant shall, commencing on the Commencement Date and continuing during the Term of this Lease, as additional rent, pay as and when due and payable, all real property taxes, including special and general assessments (hereinafter referred to as "Taxes"). Landlord shall be responsible for causing the applicable taxing authorities to send all bills directly to Tenant, at the notice address for Tenant set forth in Section 26 hereof. If any Taxes may be paid in installments over time (without incurring any penalty therefor), then Tenant may elect to pay such Taxes over the longest period available. Any such installments of such Taxes allocable to the period prior to the Commencement Date, or allocable to the period from and after the date that this Lease expires or is sooner terminated, shall be the responsibility of Landlord.

5.2. Right to Contest Taxes. Tenant or its designees shall have the right to contest or review all Taxes by legal proceedings or in such other manner as it may deem suitable (which, if instituted, Tenant or its designees shall conduct at its own cost and expense, and, if necessary, in the name of and with the cooperation of Landlord, and Landlord shall execute all documents necessary to accomplish the foregoing).

5.3. Refunds. Landlord covenants and agrees that if there shall be any refunds or rebates on account of the Taxes paid by Tenant under the provisions of this Lease, such refund or rebate shall belong to Tenant. Any refunds received by Landlord shall be deemed trust funds and as such are to be received by Landlord in trust and paid to Tenant forthwith.

5.4. Exclusions. Nothing herein contained shall require Tenant to pay municipal, state, or federal income taxes assessed against Landlord, any estate, successor, inheritance or transfer taxes of Landlord, or corporation franchise taxes or other similar types of business (as opposed to real estate or real estate related) taxes imposed upon any entity or individual owner of the Premises, and any parties related thereto, or mortgage or other loan payments with respect to the Premises.

5.5. Forwarding Bills. This Section of the Lease and other applicable provisions of this Lease concerning Taxes are predicated on the Town of Amherst allowing the bills for the Taxes to be sent directly to Tenant, and for Tenant to pay such bills directly. If the Town of Amherst should ever modify this practice, with the result that the bills for the Taxes are not sent to Tenant directly, then Landlord and Tenant shall, at Tenant's written request, enter into an amendment of this Lease, satisfactory to Tenant, to provide that Landlord shall deliver any tax bills to the Tenant within ten (10) days from the date Landlord receives them and Tenant shall pay the same.

Section 6. Utilities.

Tenant shall be responsible for connecting the Premises to all public utilities and to pay for all charges for water, gas and electricity supplied to it. Landlord shall grant any easements, approvals and licenses to utility companies and others as necessary or convenient for the development of the Premises.

Section 7. Landlord's Warranties and Representations.

Landlord represents and warrants to Tenant as follows, each such representation and warranty being material and a central inducement to Tenant to enter into this Lease:

- (a) Landlord has good record title to the Premises in fee simple, free and clear of all restrictions, leases, tenancies, and easements except as disclosed in any leasehold title policy obtained by Tenant;
- (b) Landlord has full right and authority to enter into this Lease and perform Landlord's obligations under this Lease, and Landlord owns the entire Premises and holds good and clear, record and marketable fee simple title thereto;
- (c) Landlord has not received any notice of, nor is it aware of, any pending action to take by condemnation all or any portion of the Premises;
- (d) The Premises has free and full access to and from all adjoining streets, roads and highways, and to Landlord's knowledge there is no pending or threatened action which would impair such access;
- (e) There is no litigation, and no other proceedings are pending or threatened, relating to the Premises or their use;

(f) No party other than Tenant has a right of first refusal, right of first offer, option, or other pre-emptive right of any kind, to purchase, lease or otherwise possess the Premises or any portion thereof.

(g) The Premises is not subject to any existing claim for mechanics' liens, nor are there any third parties in or entitled to possession thereof.

(h) The Premises has not been classified under any designation authorized by law to obtain a special low ad valorem tax rate or receive either an abatement or deferment of ad valorem taxes which, in such case, will result in additional, catch-up ad valorem taxes in the future in order to recover the amounts previously abated or deferred, nor is the Premises subject to any agreement, contract or commitment regarding valuation and/or minimum valuation.

(i) Landlord has received no notice and is not otherwise aware that the Premises are, or will be, in violation of any local governmental rule, ordinance, regulation or building code, nor has Landlord received notice of any pending or threatened investigation regarding a possible violation of any of the foregoing.

(j) This Lease is and shall be binding upon and enforceable against Landlord in accordance with its terms, and the transaction contemplated hereby will not result in a breach of, or constitute a default or permit acceleration and maturity under any indenture, mortgage, deed of trust, loan agreement or other agreement to which Landlord or the Premises are subject or by which Landlord or the Premises are bound.

(k) Landlord has not (i) made a general assignment for the benefit of creditors, (ii) filed any involuntary petition in bankruptcy or suffered the filing of any involuntary petition by Landlord's creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of Landlord's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Landlord's assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

Landlord shall indemnify, defend and hold Tenant harmless from and against any and all claims, actions, judgments, liabilities, liens, damages, penalties, fines, costs and expenses, including but not limited to reasonable attorneys' fees, costs of defense and expert/consultant fees, and increased costs of construction, asserted against, imposed on, or suffered or incurred by Tenant or any Designated Party (defined below) (or the Premises) arising out of or in connection with any breach of the foregoing representations and warranties. Landlord shall give Tenant prompt written notice if any such representation or warranty ceases to be true, correct, and complete. The foregoing representations, warranties and indemnity of Landlord contained in this Section shall be deemed reaffirmed and restated as of the Commencement Date and shall survive the expiration or sooner termination of this Lease.

Section 8. Improvements, Maintenance, and Surrender.

8.1. Improvements. Tenant shall have the right, to be exercised in its sole discretion, subject to the provisions of this Lease, to improve the Premises and construct or raze thereon any temporary or permanent buildings and other structures, all at the sole cost and expense of Tenant, necessary or convenient to carry out the permitted uses, title to all of which shall automatically be the property of and belong to Tenant during the term of the Lease. Tenant shall provide Owners with copies of plans and specifications prior to undertaking any improvements; if the Owners' request changes within fifteen (15) of receipt of such plans and specifications, the Town will use reasonable efforts (but will not be required to) incorporate the Owners' requests, provided that the cost of incorporating such requests is not excessive, in the Town's discretion. Tenant shall have the sole responsibility for obtaining all federal, state or local permits necessary to improve the Premises or raze any structures on the Premises. At Tenant's sole cost, Landlord agrees to cooperate with Tenant (including, without limitation, by signing applications) in obtaining any necessary permits or approvals for any work (including, without limitation, sign installation) which Tenant is permitted to perform pursuant to this Lease. If the buildings on the Premises contain, in the aggregate, more than Five Hundred Thousand (500,000) square feet of interior space (the "Rent Threshold Space"), the Base Rent shall increase as provided in Section 4.4.

8.2. Initial Improvements. Tenant intends to improve the Premises by bringing water, sewer, and other utilities to the Premises, and, if necessary under the Town's Bylaws to develop the Premises, by constructing a roadway leading to the Premises (the "Initial Improvements"). Tenant shall prepare initial designs and plans, which plans shall show the Initial Improvements and the principal buildings, along with accessory buildings, which shall not be less than, in the aggregate, Fifty Thousand (50,000) square feet of interior space (the "Initial Structure"). Tenant shall present said initial designs and plans, and any subsequent material changes or alterations thereto, to the Owner for the Owner's review and comment. The Owners shall comment on such plans within fifteen (15) days of receipt and Tenant shall, in good faith, attempt to include the Owners' requested changes provided that such changes are not inconsistent with Tenant's overall development plan for the Premises.

8.3. Maintenance. Tenant shall, at all times during the Term of this Lease, and at its own cost and expense, keep and maintain or cause to be kept and maintained in repair and good condition (ordinary wear and tear and damage by fire or other casualty and taking by eminent domain excepted), all buildings and other improvements at any time erected on the Premises; provided, however, that the foregoing merely concerns maintenance of any improvements that may from time to time exist on the Premises and does not obligate or prohibit Tenant from constructing any such improvements, or demolishing the same, so long as such construction and demolition is performed in accordance with applicable laws.

8.4. Surrender. On the termination of this Lease, Tenant shall quit and surrender the Premises, and the buildings and improvements then thereon shall become the property of Landlord, subject to the rights of a Leasehold Mortgagee (defined below), as provided below. Such buildings and improvements shall be in good condition and repair (ordinary wear and tear, damage by fire or other casualty, and taking by eminent domain excepted). Notwithstanding the

foregoing, Tenant may, at the termination of this Lease, remove all of its personal property, accessories and supplies, machinery, equipment, and inventory and all such other tangible personalty as may not be affixed or attached to the Premises, including without limitation its trade fixtures, furnishings, telecommunications systems, and equipment. Tenant shall, at its expense, repair any and all damage to the Premises resulting from or caused by the removal of such property. The provisions of this paragraph shall survive the expiration or sooner termination of this Lease.

Section 9. Mortgagees and Designated Parties.

9.1. This Lease and Tenant's interest in the Premises shall be subordinate to any mortgage or deed of trust now or hereafter encumbering Landlord's fee interest in the Premises or any portion thereof (a "Fee Mortgage"), and to the interests of the mortgagee or beneficiary thereunder (the "Fee Mortgagee"). The foregoing subordination in respect of Fee Mortgages shall, however, not be operative unless and until Landlord shall procure and deliver to Tenant a recordable subordination, nondisturbance and attornment agreement from each Fee Mortgagee (an "SNDA") in form satisfactory to Tenant and any Leasehold Mortgagee. Landlord shall deliver to Tenant, no later than the Commencement Date, such an SNDA from any existing Fee Mortgagee. Such SNDA shall provide, without limitation, that in the event the Fee Mortgage is foreclosed or the Fee Mortgagee (or a designee or assignee thereof) otherwise succeeds to the interests of Landlord in the Premises, the Fee Mortgagee (or such designee or assignee as the case may be) shall not disturb Tenant's continued quiet possession and enjoyment of the Premises under the terms of this Lease (provided that there is not at that time an Event of Default of Tenant that would have entitled Landlord to terminate this Lease pursuant to the terms hereof) and that the Fee Mortgagee (or such designee or assignee as the case may be) shall recognize Tenant as its own tenant on all the terms and provisions of this Lease for the remaining Term of this Lease together with all Extension Terms hereunder that Tenant may exercise. Such SNDA shall also, among other provisions, expressly recognize the rights of Leasehold Mortgagee, and the other Designated Parties under this Lease, and shall provide that the Fee Mortgagee agrees to be bound by all such rights of the Leasehold Mortgagee (defined below), and each of the other Designated Parties (defined below), and such rights shall not be disturbed in the event of a foreclosure of the Fee Mortgage or in any other circumstance, and that, without limiting the foregoing, the Fee Mortgagee shall execute such reasonable documents with the Leasehold Mortgagee and/or such other Designated Parties as they may request from time to time to evidence the same.

9.2. Tenant may, without the consent of Landlord, mortgage or otherwise encumber the leasehold estate, or enter into a so-called lease-lease back of the Premises (which mortgage or other encumbrance, or such lease used for such lease-lease back, is hereinafter referred to as the "Leasehold Mortgage"). The mortgagee (or, in the event of a lease-lease back, the superior lease holder) under the Leasehold Mortgage or the other holders of the indebtedness secured by the Leasehold Mortgage (the "Leasehold Mortgagee") shall notify Landlord (and any Fee Mortgagee, as that term is defined above in this Lease, provided that the notice address of such Fee Mortgagee has been supplied to Tenant in a written notice), in the manner hereinafter provided for the giving of notice, of the execution of such Leasehold Mortgage and the name and place for service of notice upon such Leasehold Mortgagee. The provisions of this Section, and any other

applicable provisions of this Lease, shall be modified in appropriate, commercially reasonable respects if the Leasehold Mortgage is in the form of a lease-lease back, to reflect that a lease-lease back is a different financing structure, which does not use a mortgage to secure the lender's rights. Neither Landlord nor Tenant shall amend, or otherwise modify this Lease, or surrender this Lease, without the Leasehold Mortgagee's prior written consent.

9.3. The undersigned Tenant (in the event that the undersigned Tenant assigns this Lease), any subtenants and any of their guarantors and mortgagees (or holders of a financing lease) (collectively, the "Sublease Parties", and singly a "Sublease Party"), any Leasehold Mortgagees, and their respective successors and assigns, are referred to, separately and collectively, as the "Designated Parties", and, individually, as a "Designated Party." In order to qualify as a "Designated Party," each such party shall deliver to Landlord written notice of its identity and notice address (the Designated Party may change such notice address from time to time by delivering written notice of such change to Landlord).

9.4. Tenant reserves the right, by delivery of written notice thereof to Landlord from time to time, to specify that some or all of the Sublease Parties shall be afforded some or all of the same rights granted under this Lease to a Leasehold Mortgagee. Without limiting the foregoing, Landlord and Tenant shall, if so requested by Tenant, enter into an amendment of this Lease to memorialize the terms contained in such written notice from Tenant to Landlord. In all events, a Sublease Party shall be a "Designated Party" and have all the rights set forth in this Lease with respect to "Designated Parties".

9.5. In the event that any Leasehold Mortgagee shall request, or any other Designated Party shall request, through Tenant, any reasonable modification of any of the provisions of this Lease, other than a provision directly related to the amount of monetary obligations hereunder, Landlord and Tenant each agree to enter into a written agreement with the other and/or such Leasehold Mortgagee or other Designated Party which shall be effective and binding upon Landlord and Tenant and shall have the same force and effect as an amendment to this Lease for all purposes.

9.6. Leasehold Mortgagee and each of the other Designated Parties shall have the rights set forth in Section 17 hereof concerning receiving notice of any defaults of Tenant and having an opportunity to cure the same.

9.7. Leasehold Mortgagee shall have the right to remove any of the Tenant's personal property which are located at the Premises (collectively, the "Tenant's Property"), whenever the Leasehold Mortgagee shall elect to enforce the security interests given by the Tenant to Leasehold Mortgagee, either during the Term of this Lease or within thirty (30) days after the expiration or the early termination thereof. Landlord hereby waives any right it may have to distrain Tenant's Property (including any property of any subtenant) and any landlord's lien or similar lien upon Tenant's Property (including any property of any subtenant), regardless of whether such lien is created otherwise.

9.8. It is the intent and purpose of the parties hereto that this Lease shall remain in full force and effect until duly terminated and shall not be deemed to have merged with the interest of

Landlord created by virtue of any lien upon the Premises or any other interest therein or any portion thereof held by Landlord or by the purchase by Tenant of Landlord's interest in the Premises or otherwise by the acquisition of both the Landlord's and Tenant's interest by the same party.

9.9. If the Lease is terminated because of an Event of Default of Tenant, then Landlord shall simultaneously send a copy of the notice of such termination to any Leasehold Mortgagee and each of the other Designated Parties, together with a statement of any and all sums which would at that time be due under this Lease but for such termination, and of all other defaults, if any, under this Lease then known to Landlord. Upon the written request of Leasehold Mortgagee or one of the other Designated Parties within thirty (30) days after the Landlord's notice that the Lease has been terminated, Landlord shall enter into a new lease of the Premises with Leasehold Mortgagee, or with any designee, assignee or transferee of Leasehold Mortgagee, or, if Leasehold Mortgagee has not notified Landlord in writing of its intention to enter such a new lease within twenty-five (25) days after delivery of the Landlord's notice that the Lease has been terminated, then any other Designated Party that has given written notice to Landlord of its intention to enter into such new lease. Such new lease shall be effective from the date of termination of this Lease, and shall be for the remainder of the Term of this Lease, at the same rent and upon all of the agreements, terms, covenants and conditions hereof (i.e. the terms and conditions will remain the same), and shall be subject to all then existing subleases and shall not disturb any such subleases (provided the subtenants under such subleases are not in material default thereunder beyond any and all applicable notice and cure periods). Such new lease shall require the tenant named therein to perform any unfulfilled obligations of Tenant under this Lease. Upon the execution of such new lease, the tenant named therein shall pay any and all sums which would at the time of the execution thereof be due under this Lease but for such termination, and shall pay the expenses incurred by the Landlord in connection with such defaults and termination, the recovery of possession of the Premises and the preparation, execution and delivery of such new lease, including, but not limited to attorney's fees incurred by Landlord. In the event of such a new lease, any and all buildings and improvements owned by Tenant prior to such termination shall automatically pass to, vest in and belong to the new tenant, and shall not become the property of Landlord unless and until the final expiration or sooner termination of this Lease not followed by such a new lease.

9.10. If Leasehold Mortgagee shall acquire title to Tenant's interest in this Lease by foreclosure, assignment in lieu of foreclosure or otherwise, or obtain a new lease pursuant to the foregoing provisions of this Section, then Leasehold Mortgagee may assign or otherwise transfer this Lease or such new lease to any assignee or transferee, and Leasehold Mortgagee shall thereupon be released from all liability for the performance of the covenants and conditions in this Lease or such new lease contained on tenant's part to be performed and observed from and after the date of such transfer and assignment, provided, however, that the transferee or assignee from Leasehold Mortgagee shall have expressly assumed such lease and written evidence thereof shall have been submitted to Landlord.

9.11. Landlord shall, within fifteen (15) days after receiving written request therefor, execute and deliver to Tenant a so-called "Subtenant Non-Disturbance Agreement" in the form provided by Tenant, with respect to each subtenant at the Premises, which instrument shall

provide, without limitation, that in the event this Lease is terminated, Landlord shall not disturb the subtenant's continued quiet possession and enjoyment of the Premises under the terms of its sublease (provided that such subtenant is not in material default under such sublease beyond any and all applicable notice and cure periods) and that Landlord shall recognize subtenant as its own tenant, on all the terms and provisions of such sublease, for the remaining term of such sublease together with any extension or renewal periods thereunder that the subtenant may exercise.

Section 10. Covenant Against Liens.

If, because of any act or omission of Tenant, any mechanic's lien or other lien, charge or order for the payment of money shall be filed against Landlord or any portion of the Premises, Tenant shall, at its own cost and expense, cause the same to be discharged of record or bonded within thirty (30) days after notice from Landlord to Tenant of the filing thereof; and Tenant shall indemnify and save harmless Landlord against and from all costs, liabilities, suits, penalties, claims and demands, including reasonable counsel fees, resulting therefrom. Tenant or its designees shall have the right to contest any such liens by legal proceedings, or in such other manner as it may deem suitable (which, if instituted, Tenant or its designees shall conduct promptly at its own cost and expense, and free of any expense to Landlord). Notwithstanding the foregoing, Tenant shall promptly pay and remove, or bond over, all such liens if, at any time, the Premises or any part thereof shall then be subject to immediate forfeiture as a result of the nonpayment thereof. After the Effective Date and continuing until the expiration or sooner termination of this Lease, Landlord shall not create any new liens, easements, or other encumbrances over all or any part of the Premises or any interest therein (except for mortgages of Landlord's fee interest which are permitted so long as they are granted by an institutional lender and are in accordance with the terms of this Lease, including without limitation Section 9 hereof), without the prior written consent of Tenant, in its sole discretion.

Section 11. Intentionally Omitted.

Section 12. Indemnification.

12.1 Tenant's Indemnification Obligations. Subject to the provisions of Section 13.4, Tenant shall indemnify Landlord, to the extent permitted by law, against all liabilities, damages and other expenses, including reasonable attorneys' fees, that may be imposed upon, incurred by, or asserted against Landlord by third parties (including reasonable attorneys' fees in connection therewith) for any injury to or death of any person or persons, or damage to, or theft, destruction, loss, or loss of use of, any property (separately and collectively, a "Loss") because of (a) any failure on the part of Tenant to perform or comply with any covenant required to be performed or complied with by Tenant under this Lease, or (b) any injury to person or loss of or damage to property sustained or occurring on or about the Premises resulting from the negligence or reckless acts or omissions of Tenant or its agents, employees, contractors, licensees, invitees, successors and assigns, except to the extent to which such liability is attributable to the negligent or reckless acts or omissions of Landlord or its agents, employees, contractors, licensees or invitees. If Landlord shall have to sue Tenant to enforce this indemnity and if Landlord prevails in such suit, then Tenant shall reimburse Landlord for its reasonable attorneys' fees in bringing such action.

12.2. Landlord's Indemnification Obligations. Subject to the provisions of Section 13.4, Landlord shall defend, indemnify, and hold harmless Tenant, subtenants, and their respective representatives and agents from and against all third party claims or demands (including reasonable attorneys' fees in connection therewith) for any Loss (defined above) to the extent caused by the negligence or willful misconduct of Landlord or its agents, employees, contractors, licensees or invitees. If Tenant shall have to sue Landlord to enforce this indemnity and if Tenant prevails in such suit, then Landlord shall reimburse Tenant for its reasonable attorneys' fees in bringing such action. This indemnity provision shall survive termination or expiration of this Lease.

Section 13. Insurance.

13.1. Comprehensive General Liability Insurance. Tenant shall carry comprehensive general liability insurance in a good and solvent insurance company or companies selected by Tenant, and being licensed to do business in the Commonwealth of Massachusetts, in the amount of at least Five Million Dollars (\$5,000,000) combined single limit for bodily injury and for property damage with respect to the Premises, and shall name Landlord as additional insured.

13.2. Property Insurance. During the Term of this Lease, Tenant shall keep all buildings and improvements erected or caused to be erected at any time by Tenant on the Premises insured for the benefit of Tenant and the holder of any Leasehold Mortgage, with Landlord named as an additional insured, as their respective interests may appear, against loss or damage by fire and the so-called customary extended coverage casualties in a minimum amount necessary to avoid the effect of co-insurance provisions of the applicable policies. All proceeds payable at any time and from time to time by any insurance company under such policies shall be payable to the Leasehold Mortgagee, as the Leasehold Mortgage or other loan documents pertaining to the Leasehold Mortgage ("Loan Documents") may provide, or, if no such requirement exists under the Loan Documents, then to Tenant. If any such proceeds are paid to such Leasehold Mortgagee, or to Tenant, then Tenant shall be entitled to receive the full amount thereof in accordance with the terms of such Leasehold Mortgage or Loan Documents, and Landlord shall not be entitled to, and shall have no interest in, such proceeds or any part thereof.

13.3. Blanket Insurance. Any insurance required to be provided by Tenant hereunder may be provided by blanket insurance covering both the Premises and other properties of Tenant if (i) such blanket insurance complies with all of the other requirements of the Ground Lease, and (ii) the amounts payable to Landlord and those claiming by, under and through Landlord under such blanket insurance shall at all times be no less than the face of such blanket insurance. Such policy shall include Landlord as named insureds and Tenant shall deliver to Landlord certificates of such insurance at the beginning of the term of the Ground Lease and thereafter not less than ten (10) days prior to the expiration of any such policy. Such insurance shall be noncancellable without at least ten (10) days written notice to Landlord. Any insurance required to be provided by Tenant pursuant to this Lease may be provided by a subtenant and in such event, references in this Section to the "Town" shall, at Tenant's election, mean either the "Town" and/or "subtenant." Tenant shall make available to Landlord evidence of all insurance required to be carried by Tenant under the provisions of this Lease. If the insurance is carried by a subtenant

then Tenant may provide such evidence to Landlord.

13.4. Release. Landlord and Tenant each hereby release each other from liability to the extent covered by insurance actually carried or required to be carried hereunder. Any insurance policy under which Landlord or Tenant is not a named insured shall contain a clause that the insurer will agree to waive any right of subrogation against Landlord or Tenant, as the case may be, in connection with or arising from fire or other risks or casualties covered by said insurance.

Section 14. Casualty.

14.1. If the Premises or any building located on the Premises (a "Building") are damaged by fire or other casualty (a "Casualty"), Tenant shall, within sixty (60) days after such Casualty, deliver to Landlord a good faith written estimate (the "Damage Notice") of the time needed to repair the damage caused by such Casualty.

14.2. If a material portion of the Premises or a Building is damaged by Casualty such that Tenant (or any subtenant) is prevented from conducting its business in the Premises in a manner reasonably comparable to that conducted immediately before such Casualty, and Tenant estimates that the damage caused thereby cannot be repaired within one hundred twenty (120) days after the Casualty, or if Tenant (or any subtenant carrying the applicable casualty insurance) is required to pay any insurance proceeds arising out of the Casualty to a mortgagee, then Tenant may terminate this Lease by delivering written notice thereof to Landlord. If Tenant does not so terminate this Lease, then Tenant (or a subtenant) shall either repair the Building or the Premises, as the case may be, or shall exercise its right to demolish the Building, in which Tenant shall remove all rubble and debris. During the restoration, Tenant (and the subtenant) may operate its business out of a temporary structure such as a trailer, subject to compliance with applicable laws.

Section 15. Condemnation.

15.1. If a material part of the Premises is taken in condemnation proceedings, or by any right of eminent domain, or for any public or quasi-public use, or if Landlord shall deliver to a governmental authority a deed in lieu of condemnation or eminent domain (individually or collectively, a "taking", or "taken"), then Tenant may terminate this Lease if Tenant shall so notify Landlord within ninety (90) days after such taking. If Tenant shall not so terminate this Lease, then this Lease shall continue in full force and effect, except that Rent shall be reduced on a proportionate basis equal to the greater of (a) the percentage that the square footage of the taken portion of the Premises bears to the square footage of the overall Premises or (b) if a portion of a Building is taken then the proportion that the gross floor area of the part so taken or condemned shall bear to the total gross floor area of the Building immediately prior to such taking.

15.2. If a taking is made during the Initial Term, then Landlord shall be entitled to receive from any award or compensation on account of any taking an amount equal to the Base Rent for the then current year divided by twelve multiplied by the remaining number of months in the Initial Term plus the Purchase Price (as defined in Section 25 herein), and the balance of the award or compensation, if any, shall be paid to Tenant.

If a taking is made after the expiration of the Initial Term, Landlord and Tenant agree that any award or compensation on account of any taking will be allocated between the parties in accordance with their respective interests in the Premises. Each of Landlord and Tenant may appear in any takings proceeding or action, to negotiate, prosecute and adjust any claim for any award or compensation on account of any taking as it relates to their respective interest in the Premises. Landlord and Tenant shall each pay all of its reasonable costs and expenses in connection with each such proceeding, action, negotiation, prosecution and adjustment for which costs and expenses Landlord and Tenant shall be reimbursed out of any award, compensation or insurance payment to which it is entitled. Landlord shall have no interest in any such award, compensation or payment, or any portion thereof, made in respect of Tenant's leasehold estate or the improvements, or any interest of a subtenant, or any moving costs or other awards with respect to the interruption of the business of Tenant or any subtenant, all of which shall belong to and be paid to Tenant.

Section 16. Assignment and Subletting.

16.1. For the period beginning on the Commencement Date and ending on the date the Initial Improvements have been completed (the "Initial Construction Period"), provided that Tenant is not in default of the provisions of this Lease past any applicable notice and cure periods at the time such assignment, transfer, or sublease would otherwise commence, Tenant may assign, transfer, or sublease, in whole or in part, this Lease or its rights and obligations under the Lease, in whole or in part (each of the foregoing, a "Transfer," and, collectively, the "Transfers"), only with Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed, provided that the transferee enters into an Assignment and Assumption, expressly assuming Tenant's rights and obligations hereunder.

For the period after the Initial Construction Period and prior to the issuance of a certificate of occupancy for the Initial Structure (the "Building Construction Period"), provided that Tenant is not in default of the provisions of this Lease past any applicable notice and cure periods at the time such assignment, transfer, or sublease would otherwise commence, Tenant may assign, transfer, or sublease, in whole or in part, this Lease or its rights and obligations under the Lease, in whole or in part (each of the foregoing, a "Transfer," and, collectively, the "Transfers"), only with Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed, provided that the transferee enters into an Assignment and Assumption, expressly assuming Tenant's rights and obligations hereunder and provided that the Tenant or assignee have posted a performance bond in favor of Landlord in an amount equal to the estimated remaining costs of completing the Initial Structure as reasonably determined by Landlord.

After a certificate of Occupancy has been issued for the entire Initial Structure, provided that Tenant is not in default of the provisions of this Lease past any applicable notice and cure periods at the time such assignment, transfer, or sublease would otherwise commence, Tenant may assign, transfer, or sublease, in whole or in part, this Lease or its rights and obligations under the Lease, in whole or in part (each of the foregoing, a "Transfer," and, collectively, the "Transfers"), without Landlord's prior written consent, provided that the transferee enters into an

Assignment and Assumption, expressly assuming Tenant's rights and obligations hereunder.

In cases of a Transfer other than a subletting, Tenant shall remain liable hereunder except as follows: Tenant shall not remain liable after the end of Building Construction Period, regardless of when a Transfer may occur, if the assignee has entered into an Assignment and Assumption agreement and such assignee remains in full compliance with the lease as of the end of the Building Construction Period. Tenant shall not be liable during the Building Construction Period, regardless of when a Transfer may occur, if the assignee has entered into an Assignment and Assumption agreement and if the Bond remains in full force and effect, however if the Bond should not remain in full force and effect, then the Town shall be liable during such period.

In cases of subletting, Tenant shall remain liable hereunder. Promptly following any such assignment or subletting, Tenant shall notify Landlord of the name and address of such sublessee or assignee. Tenant's right to assign, transfer and sublease shall be a continuing right and shall not be exhausted by a single exercise.

16.2. In the event that Tenant assigns a portion of the Premises, Landlord agrees that it shall amend this Lease to exclude said assigned portion from the definition of "Premises" and shall enter into a new lease (with the assignee, if the assignee has a net worth of at least Ten Million Dollars, or with Tenant, if the assignee does not have such a net worth). The new lease shall be effective from the date of the assignment and shall be for the remainder of the Term of this Lease at the Rent allocable to the portion of the Premises so assigned and upon all of the other agreements, terms, covenants and conditions hereof.

16.3. Tenant shall pay 30% of any Additional Compensation paid to Tenant, directly or indirectly, from any and all assignee, transferee or sublessee of the Lease in excess of the amounts paid by Tenant to Landlord hereunder. "Additional Compensation" means the excess of (1) all compensation received by Tenant for a Transfer (including without limitation all sublease rent, but not including any compensation allocable to Tenant's personal property or the general business value of Tenant's operations, if the Transfer is being made in connection with a sale or other transfer of Tenant's business at the Premises), over (2) the sum of (x) the reasonable costs incurred by Tenant with unaffiliated third parties in connection with such Transfer (i.e., brokerage commissions, all work done to make the Premises suitable for assignee/subtenant use, reasonable attorneys' fees, and the like), plus (y) the Base Rent.

16.4 With respect to this Section 16, the restriction on any of Tenant's actions subject to the consent of Landlord shall be personal to Bruce Patterson and his descendants and no other assignee of Landlord's rights hereunder may withhold consent under this Section 16 for any reason whatsoever.

Section 17. Default and Remedies.

17.1. The following shall constitute "Events of Default" by Tenant under this Lease: (a) Tenant shall fail to pay any installment of Rent or other sum specified in this Lease and such failure shall continue for thirty (30) days after Tenant receives written notice thereof from Landlord specifying such failure; or (b) Tenant shall fail in the observance or performance of any

other of Tenant's covenants, agreements, or obligations under this Lease and such failure shall not be corrected within sixty (60) days after written notice therefrom from Landlord specifying such failure (or, if such cure cannot reasonably occur within the sixty (60) day period, so long as Tenant commences the cure within said sixty (60) day period and thereafter diligently pursues it to completion within a reasonable amount of time). Any Designated Party may cure any Event of Default of Tenant hereunder, and for purposes of effecting such cure shall be afforded, in the instance of a default in the payment of Rent, an additional thirty (30) day cure period beyond the Tenant cure period, and, in the event of any other default, an additional sixty (60) days beyond the Tenant cure period, unless such cure cannot be accomplished by a particular Designated Party within such sixty (60) days (including, without limitation, because of the need for a Designated Party to foreclose or otherwise take possession of the Premises) in which event such Designated Party shall have such further time as it may reasonably require, provided that such Designated Party has commenced to cure within such sixty (60) day period.

17.2. Landlord shall have the right to recover any delinquent Rent which is due but has not been paid, and shall also have the right to pursue one of the following remedies after providing ten (10) days prior written notice of the intended exercise thereof to Tenant and each of the Designated Parties: (a) for violation of an Event of Default in the payment of Rent, but only for such an Event of Default and not in any other instance, Landlord may terminate this Lease (notwithstanding such termination, Tenant shall remain liable for the Base Rent for the remainder of the Term of the Lease); or (b) Landlord may bring separate actions against Tenant from time to time to collect any one or more delinquent installments or payments of Rent due under this Lease. Landlord shall use reasonable efforts to mitigate its damages and to re-let the Premises. In addition to the foregoing, Landlord shall have all of its other rights and remedies at law and equity, except for the right to terminate this Lease, it being agreed that Landlord may terminate this Lease only in the particular circumstance described above.

17.3. If Landlord shall fail to observe or perform any provision hereof and such failure shall continue for thirty (30) days after notice to Landlord of such failure, then an Event of Default of Landlord shall exist under this Lease, provided, however, that in the case of any such failure which cannot with diligence be cured within such thirty (30) day period, if Landlord shall commence promptly to cure the same and thereafter prosecute the curing thereof with diligence, the time within which such failure may be cured shall be extended for such period as is necessary to complete the curing thereof with diligence, unless such Event of Default of Landlord would cause Tenant to be in default, beyond applicable notice and cure periods, under a sublease, or a Leasehold Mortgage, in which event Landlord shall not have any longer cure period than thirty (30) days prior to the end of such cure period given to Tenant under the applicable sublease or Leasehold Mortgage, provided that Tenant informs Landlord in writing of the length of such cure period under the applicable sublease or Leasehold Mortgage.

17.4. If an Event of Default of Landlord shall have occurred and be continuing beyond the applicable cure period, Tenant may, in addition to and without limitation of all its other rights and remedies at law and equity, terminate this Lease by giving Landlord written notice thereof. Upon the giving of such notice, this Lease and the estate hereby granted shall expire and terminate on such date as fully and completely and with the same effect as if such date were the date herein fixed with the expiration of the Term of this Lease, and Rent shall be apportioned as

of such date and Landlord shall promptly refund to Tenant any Rent theretofore paid which is allocable to the period subsequent to such date, except that provisions stated herein to survive the expiration or earlier termination of this Lease shall so survive.

17.5. Each party (i.e. both Landlord and Tenant, as well as any Designated Party on behalf of Tenant) shall have the right, but shall not be required, to pay such sums or do any act which requires the expenditure of monies which may be necessary or appropriate by reason of the failure or neglect of the other party to perform any of the provisions of this Lease. Such right shall be exercised only after at least thirty (30) days' prior written notice to the other party, except that in the event of an emergency only telephone notice or attempted telephone notice shall be required prior to such exercise. All of the foregoing notwithstanding, Landlord shall be permitted to perform any repair to any building only if: (i) Landlord shall be required to do so by applicable laws due to the existence of any condition which shall endanger public health or safety; and (ii) if any premises within any such building shall be occupied, then Landlord shall give reasonable prior notice to such occupant and shall enter such premises only during the normal business hours of such occupant unless otherwise agreed to by such occupant, and Landlord shall not materially interface with the operation of any business at such premises. In the event that the Landlord exercises the self-help remedy granted to Landlord by this paragraph, Tenant agrees to pay Landlord forthwith upon demand all such sums reasonably incurred by Landlord in charge. In the event that Tenant (or a Designated Party) exercises the self-help remedy granted to Tenant by this paragraph, Landlord agrees to pay to Tenant (or the Designated Party, as the case may be) forthwith upon demand all such sums reasonably incurred by Tenant (or such Designated Party) in performing such self-help, as evidenced by paid receipts therefor. Alternatively, Tenant may, at its election, and upon notice to Landlord, deduct such sum from the next succeeding payment or payments of Rent, and such deduction shall in no way be considered a failure on the part of Tenant to pay such Rent.

Section 18. Hazardous Materials.

Landlord represents and warrants that, to the best of Landlord's knowledge, the Premises are free of Hazardous Materials (defined below) as of the Commencement Date. Tenant shall have no obligation to make any repairs, alterations or improvements to the Premises or incur any costs, expenses or liabilities whatsoever as a result of Hazardous Materials that are either present at the Premises as of the Commencement Date, or are caused by Landlord, its affiliates, or their respective employees, agents, contractors, subcontractors, or invitees. Landlord shall be solely responsible, at Landlord's sole expense, for any remediation work or any other type of work arising from such Hazardous Materials and any remediation relating thereto. Tenant shall be solely responsible, at Tenant's sole expense, for any remediation work of any other type of work arising from any other types of Hazardous Materials. Each party will, to the extent permitted by law, indemnify and hold harmless the other party from and against all liabilities, costs, damages and expenses which the indemnified party may incur (including reasonable attorneys' fees) as a result of Hazardous Materials for which the indemnifying party is responsible in accordance with the terms of this Lease.

"Hazardous Materials" means, collectively, any, medical waste, blood, biohazardous materials, hazardous waste, hazardous materials, hazardous substances, pollutants or

contaminants, petroleum or petroleum products, radioactive materials, asbestos in any form or condition, or any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials or substances within the meaning of any applicable federal, state or local law, regulation, ordinance or requirement relating to or imposing liability or standards of conduct concerning any such substances or materials on account of their biological, chemical, radioactive, hazardous or toxic nature, all as now in effect or hereafter from time to time enacted or amended. For purposes of this Lease, "Environmental Laws" means all laws, rules, orders and regulations of federal, state, county, and municipal authorities with jurisdiction over the Premises, concerning any Hazardous Materials whatsoever.

Section 19. Force Majeure

In any case where either party to this Lease is required to do any act, delays caused by or resulting from war, fire, flood or other casualty, unusual regulations, unusually severe weather, or other causes beyond such party's reasonable control shall not be counted in determining the time during which such act shall be completed, whether such time be designated by a fixed date, a fixed time or "a reasonable time" and such time shall be deemed to be extended by the period of the delay.

Section 20. Certificates.

Either party shall, without charge, at any time and from time to time hereafter, within ten (10) days after written request of the other, certify by written instrument duly executed and acknowledged to any mortgagee or purchaser, or proposed mortgagee or proposed purchaser, or any other person, firm or corporation specified in such request: (a) as to whether this Lease has been supplemented or amended (and, if it shall have been supplemented or amended, specifying the manner in which it has been supplemented or amended); (b) as to whether this Lease is in full force and effect (and, if it is alleged that this Lease is not in full force and effect, specifying the reasons therefor); (c) as to the date to which Rent has been paid; (d) as to whether, to such certifying party's actual knowledge, any condition exists which constitutes a default hereunder or which, but for the passage of time or the giving of notice or both, would result in a default by Landlord or Tenant hereunder (and, if such condition exists, specifying the nature thereof); (e) as to whether, to such certifying party's actual knowledge, there exist any offsets, counterclaims or defenses thereto on the part of the other party; (f) as to the commencement and expiration dates of the Term of this Lease; and (g) as to such other matters as may reasonably be requested. Any such certificate may be relied upon by the party requesting it and any other person, firm or corporation to whom the same may be exhibited or delivered, and the contents of such certificate shall be binding on the party executing same.

Section 21. Priority Development.

Landlord shall cooperate with Tenant, and execute any document deemed necessary or convenient, in designating the Premises as a "priority development site" under G.L. c.43D and in obtaining any other federal, state or local permits to develop the Premises. Landlord also shall grant such utility easements on the Premises as may be necessary or convenient for the development of the Premises.

Section 22. Compliance With Laws.

Beginning on the Commencement Date and continuing during the Term of this Lease, Tenant shall, at its own cost and expense, promptly observe and comply with all laws, ordinances, requirements, and regulations of the federal, state, county and municipal governments affecting the Premises (collectively, the "Laws" and singly a "Law"), whether the same are in force at the Commencement Date or may in the future be passed, enacted or directed; provided, however, that nothing in this Section shall impose any liability on Tenant in connection with any costs, expenses, liabilities, losses, damages, fines, penalties, claims and demands, including reasonable counsel fees, that may in any manner arise out of or be imposed because of any failure by Landlord to comply with its obligations under this Lease or because of any conditions in existence prior to the Commencement Date, and further provided that Tenant shall have the benefit of all so-called "grandfathering" provisions under applicable Laws.

Tenant shall have the right to contest by appropriate legal proceedings diligently conducted in good faith, in the name of the Tenant or Landlord (if legally required), without cost or expense to Landlord, the validity or application of any Laws and, if by the terms of any such Law compliance therewith may legally be delayed pending the prosecution of any such proceeding, Tenant may delay such compliance therewith until the final determination of such proceeding.

Landlord agrees to execute and deliver any appropriate papers or other instruments which may be necessary or proper to permit Tenant so to contest the validity or application of any such Law and to fully cooperate with Tenant in such contest.

Section 23. Reversion of Conservation Land.

With respect to any portion of the Premises that Tenant and Landlord deem to be appropriate for a conservation restriction, such portion shall, immediately prior to such restriction being put in place, be removed from the Premises hereunder provided that Landlord then promptly records such restriction. There shall be no adjustment to the Base Rent on account of such change to the Premises.

Section 24. Right of First Refusal.

Landlord hereby grants to Tenant the right to purchase all or any portion of the Premises on the following terms and conditions (the "Right of First Refusal"):

If Landlord should at any time during the Term of this Lease either (a) receive a bona fide binding offer to purchase (or obtain an option or other pre-emptive right to purchase) all or any portion of the Premises from a third party, and Landlord should desire to accept such offer, or (b) make a bona fide binding (subject to the Tenant's Right of First Refusal contained herein) offer to sell (or grant an option or other pre-emptive right to purchase) all or any portion of the Premises to a third party (each of the offers described above being referred to as an "Offer"), then Landlord shall deliver to Tenant a notice (the "Acquisition Notice") setting forth the name of the prospective purchaser (or holder of such option or other pre-emptive right), the real property that

is at issue (the "Offer Area") and the terms and conditions of such Offer.

Tenant shall have ninety (90) days from receipt of the Acquisition Notice to exercise its Right of First Refusal by delivering notice thereof to Landlord. Delivery of such notice shall obligate Tenant to purchase the Offer Area on the date which is ninety (90) days after receipt of the Acquisition Notice (or any earlier date requested by Tenant) and on the applicable terms and conditions set forth in the Offer. In the event Tenant shall not elect to exercise its Right of First Refusal, Tenant shall conclusively be deemed to have waived its Right of First Refusal as to the particular proposed transfer described in the Offer (provided that such transfer occurs within the next one hundred eighty (180) days, and at the purchase price and on the other terms set forth in the Offer), but such Right of First Refusal shall continue in full force and effect as to any subsequent transfer.

Notwithstanding anything in this Lease to the contrary, in exercising this Right of First Refusal, Tenant shall not be obligated to pay any sum attributable to any structures or improvements on the Offer Area that may have been paid for by Tenant, or any subtenant or assignee.

If Landlord is an entity, then any attempted transfer of a controlling interest in Landlord shall be deemed the equivalent of a transfer of the fee interest in the Premises for purposes of this Section, and shall therefore trigger Tenant's Right of First Refusal hereunder.

This Right of First Refusal shall not apply to any interfamily transfers among individual family members or family trusts which are done solely for estate planning purposes, regardless of whether the transfers are with or without consideration.

Section 25. Option to Purchase.

At any time after the Initial Term has expired, Tenant shall have the option to purchase the Premises (the "Option") by giving Landlord written notice thereof (the "Purchase Notice") for the sum of Five Million Dollars (\$5,000,000.00) (the "Purchase Price"). The Purchase Notice shall indicate the date of closing for the purchase.

The purchase and sale of the Premises upon exercise of the Option shall occur at a closing (the "Closing") to be held at the offices of Bulkley, Richardson and Gelinas, LLP, Suite 2700, 1500 Main Street, Springfield, Massachusetts at 11:00 A.M. unless some other place and time should be mutually agreed upon by the Parties in writing. At the Closing, Tenant shall pay the Purchase Price, and Landlord shall deliver a quitclaim deed, running to Tenant or its nominee, successor or designee, conveying good and clear, record and marketable title to the Premises.

To enable Landlord to make conveyance as herein provided, Landlord may at the time of the delivery of the deed use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests. All instruments so procured shall be delivered by Landlord to Tenant simultaneously with the delivery of said deed.

Landlord shall execute and deliver at or prior to the Closing any and all documents

reasonably requested by Tenant, Tenant's lender or Tenant's title insurance company, including but without limitation, a non-foreign Landlord's certificate, a mechanics' lien affidavit, all certificates and documents necessary to clear title and all documents needed to comply with requirements of the Real Estate Settlement Procedures Act, the Foreign Investment in Real Property Tax Act, and any other laws and regulations applicable to the transaction.

Any title matter which is the subject of a title standard or practice standard of the Real Estate Bar Association for Massachusetts at the time for delivery of the deed shall be covered by said title or practice standard to the extent applicable.

Section 26. Notices.

All notices, demands, elections or other communications required, permitted or desired to be served hereunder shall be in writing and shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested, or by reputable overnight courier, or by facsimile if followed immediately by one of the other approved methods for delivery, addressed as follows: if to Landlord, to Bruce Patterson, 28 Kingman Road, Amherst, MA 01002, with a copy to: Scott Foster, Esq., Bulkley, Richardson and Gelinias, LLP, 1500 Main Street, Suite 2700, Springfield, MA 01115, Fax: (413) 785-5060, and if to Tenant to the Amherst Town Manager, Amherst Town Hall, 4 Boltwood Avenue, Amherst, MA 01002, Fax: (413) 259-2405, with a copy to Shirin Everett, Esq., Kopelman and Paige, P.C., 101 Arch Street, Boston, MA 02110, Fax: (617) 654-1735. If Landlord shall send any notice regarding any default by Tenant, then any such notice from Landlord shall also be sent with a copy to each of the Designated Parties (including the respective successor in interest of each Designated Party), at the respective addresses for such Designated Parties that is supplied to Landlord from time to time by written notice. Addresses for service of notice may be changed by written notice served as hereinabove provided at least ten (10) days prior to the effective date of any such change.

Section 27. Covenant of Quiet Enjoyment.

Tenant shall, upon paying the Rent reserved hereunder and observing and performing all of the terms, covenants and conditions on Tenant's part to be observed and performed, within all applicable notice and cure periods provided by this Lease, peaceably and quietly have and hold, the Premises, without hindrance or molestation by any person or persons

Section 28. Miscellaneous.

(a) This Lease and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State in which the Premises are located.

(b) If Tenant shall hold the Premises after the expiration of the Term hereof, such holding over shall, in the absence of written agreement on the subject, be deemed to have created a tenancy from month to month terminable on thirty (30) days notice by either party to the other, at a monthly rental equal to the monthly rental payable during the last year of said Term.

(c) If any term, covenant, condition or provision of this Lease or the application thereof

to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remaining terms, covenants, conditions and provisions shall not be affected thereby, and each term, covenant, condition and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

(d) Each party shall at any time, within five (5) business days after receiving the written request therefor from the other party, promptly execute and deliver duplicate originals of a so-called Memorandum of Lease. Tenant may cause such Memorandum of Lease to be recorded, at Tenant's sole cost and expense.

(f) The section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof.

(f) No oral statement or prior written matter shall have any force or effect. The parties agree that they are not relying on any representations or agreements other than those contained in this Lease. This Lease shall not be modified or canceled except by writing subscribed by all parties.

(g) Except as herein otherwise expressly provided, the covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective heirs, successors, administrators and assigns.

(h) Tenant and Landlord represent and warrant to each other that neither has had any dealings or discussions with any broker or agent, licensed or otherwise in connection with this Lease. Landlord and Tenant each covenants to protect, defend, hold harmless and indemnify the other from and against any and all losses, liabilities, damages, costs and expenses (including reasonable legal fees) arising out of or in connection with any other claim by any brokers or agents for brokerage commissions relating to this Lease alleged to be due because of dealings or discussions with the indemnifying party.

(i) If the end of any time period herein, or if any specified date, falls on a weekend or national or state (i.e., the state where the Premises is located) holiday, then the end of such time period, or such date, as the case may be, shall be extended to the next business day thereafter. Any period provided herein for action by Tenant shall end at 11:59 P.M. on the last day of such period, unless this Lease provides that performance is due by a different time on that day.

(j) Notwithstanding anything in this Lease to the contrary, neither Landlord nor Tenant shall be liable for any consequential, incidental, or punitive damages.

(k) Nothing contained in this Lease shall be construed as creating a partnership or joint venture between Landlord and Tenant, or to create any other relationship between the parties hereto other than that of Landlord and Tenant.

(l) Landlord shall cooperate with Tenant (and the Designated Parties) in a good faith and commercially reasonable manner with respect to all undertakings of Tenant (and/or any of the Designated Parties) related to this Lease, including without limitation signing such ancillary of

additional documents or instruments as Tenant or any of the Designated Parties may reasonably request in order to effectuate the purposes hereof. Wherever the consent of Landlord is required under this Lease, such consent shall not be unreasonably withheld, conditioned or delayed unless this Lease expressly and specifically provides otherwise.

(m) If either party hereto is a corporation, limited liability company, or other entity providing limited liability protection under applicable Laws, then in no event shall there be any personal liability of any officer, director, employee, member, manager, partner, or any other person or entity comprising such party.

(n) Failure of Landlord or Tenant to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder.

(o) This Lease may be executed in any number of original counterparts. Each fully executed counterpart shall be deemed an original.

[signature page follows]

Executed as an instrument under seal on this _____ day of _____, 20____.

LANDLORD:

Bruce H. Patterson, Trustee
Patterson Nominee Trust

Arlette S. Patterson, Trustee
Patterson Nominee Trust

TENANT: TOWN OF AMHERST

By: _____
Laurence Shaffer, its Town Manager

NOTICE OF LEASE

In accordance with G.L. c.183, §4, notice is hereby given of the following described Ground Lease and to provide notice of the referenced Ground Lease:

LEASE EXECUTION DATE: _____

LANDLORD:

**Bruce H. Patterson and Arlette S. Patterson,
Trustees of the Patterson Nominee Trust, u/d/t dated
April 4, 2001, recorded with the Hampshire County
Registry of Deeds in Book 6217, Page 137
340 Montague Road
Amherst, MA 01002**

TENANT:

**Town of Amherst
4 Boltwood Avenue
Amherst, MA 01002**

LEASED PREMISES:

Three (3) parcels of land located on Montague Road, Amherst, MA 01002, together any and all appurtenances, rights, privileges and easements benefiting, belonging or pertaining thereto and all existing improvements thereon (collectively, the "Premises"), described as follows: (a) a parcel identified by the Assessors as Lot 2C-3, containing 38.97 acres and described as Tract Two in a deed recorded with the Hampshire District Registry of Deeds in Book 6217, Page 146 (the "Deed"), (b) a parcel identified by the Assessors as Lot 2C-9, containing 21.5 acres, more or less, and described as Parcel No. 1 of Tract Five in the Deed, and (c) a parcel identified by the Assessors as Lot 2C-30 containing 0.165 acres, more or less, and described as Parcel No. 2 of Tract Five in the Deed. Excluded from the Premises are the parcels of land shown as "Excluded parcels" on the attached sketch plan, said excluded parcels being identified by the Assessors as Lot 2C-6, Lot 2C-21, Lot 2C-24, Lot 2C-29, Lot 23-33, and a portion of Lot 2C-3.

INITIAL TERM: Twenty-five (25) years, commencing on _____, 20____ (“Commencement Date”) and terminating on _____, 20____ (“Termination Date”)

RIGHTS OF EXTENSION: Seven (7) extension terms of ten (10) years each (maximum term of ninety-five (95) years), to be exercised by Tenant

OPTION TO PURCHASE: To be exercised anytime after the expiration of the Initial Term, as set forth more particularly in the Lease

RIGHT OF FIRST REFUSAL: As set forth more particularly in the Lease

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this instrument as a sealed instrument as of the day and year first written above.

LANDLORD:

Bruce H. Patterson, Trustee
Patterson Nominee Trust

Arlette S. Patterson, Trustee
Patterson Nominee Trust

TENANT:

TOWN OF AMHERST,
By its Town Manager

COMMONWEALTH OF MASSACHUSETTS

_____, ss

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose as Trustee(s) of Patterson Nominee Trust.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

_____, ss

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, Town Manager of the Town of Amherst, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the Town of Amherst.

Notary Public
My Commission Expires:

390532/AMHR/0025

TRUSTEES' CERTIFICATE

Bruce H. Patterson and Arlette S. Patterson, Trustees of the Patterson Nominee Trust, u/d/t dated April 4, 2001, recorded with the Hampshire County Registry of Deeds (the "Registry") in Book 6217, Page 137 (the "Trust"), hereby state under oath:

1. We are the sole Trustees of the Trust.
2. The Trust has not been revoked or terminated and all amendments of the Trust have been recorded with said Deeds.
3. No beneficiary of this Trust is a minor or incompetent and this Trust does not constitute all or substantially all of the assets of any corporate beneficiary. No beneficiary is a personal representative of an estate subject to estate tax liens.
4. We have been authorized by all of the beneficiaries to lease to the Town of Amherst, for a total term not exceeding ninety-five (95) year and on such other terms and conditions as the Trustees deem appropriate, the following described premises: Three (3) parcels of land located on Montague Road, Amherst, MA 01002, together any and all appurtenances, rights, privileges and easements benefiting, belonging or pertaining thereto and all existing improvements thereon (collectively, the "Premises"), described as follows: (a) a parcel identified by the Assessors as Lot 2C-3, containing 38.97 acres and described as Tract Two in a deed recorded with the Hampshire District Registry of Deeds in Book 6217, Page 146 (the "Deed"), (b) a parcel identified by the Assessors as Lot 2C-9, containing 21.5 acres, more or less, and described as Parcel No. 1 of Tract Five in the Deed, and (c) a parcel identified by the Assessors as Lot 2C-30 containing 0.165 acres, more or less, and described as Parcel No. 2 of Tract Five in the Deed. Excluded from the Premises are the parcels of land shown as "Excluded parcels" on the attached sketch plan, said excluded parcels being identified by the Assessors as Lot 2C-6, Lot 2C-21, Lot 2C-24, Lot 2C-29, Lot 23-33, and a portion of Lot 2C-3.

WITNESS my hand and seal this _____ day of _____, 20____.

Bruce H. Patterson, Trustee
Patterson Nominee Trust

Arlette S. Patterson, Trustee
Patterson Nominee Trust

COMMONWEALTH OF MASSACHUSETTS

_____, SS

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose as Trustee(s) of Patterson Nominee Trust.

Notary Public
My Commission Expires:

SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement (this "Agreement"), is made as of this _____ day of _____, 20____, among _____ ("Lender"), **Bruce H. Patterson, Trustee of the Patterson Nominee Trust**, u/d/t dated April 4, 2001, recorded with the Hampshire County Registry of Deeds in Book 6217, Page 137 ("Landlord") and the **Town of Amherst**, a Massachusetts municipal corporation acting by and through its Town Manager, having an address of 4 Boltwood Avenue, Amherst, MA 01002 ("Tenant").

Background

- A. Lender is the holder of a mortgage or other similar security instrument recorded with the Hampshire District Registry of Deeds in Book _____, Page _____ (the "Mortgage"), covering, among other things, the real property commonly known and described as and further described on Exhibit "A" attached hereto and made a part hereof for all purposes, and the building and improvements thereon (collectively, the "Property").
- B. Tenant is the lessee under that certain lease agreement between Landlord and Tenant dated _____ (the "Lease"), demising a portion of the Property described more particularly in the Lease (the "Premises").
- C. Landlord, Tenant and Lender desire to enter into the following agreements with respect to the priority of the Lease and the Mortgage.

NOW, THEREFORE, in consideration of the mutual promises of this Agreement, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Subordination. Tenant agrees that the Lease, and all estates, options and rights created under the Lease, hereby are subordinated and made subject to the lien and effect of the Mortgage, as if the Mortgage had been executed and recorded prior to the Lease.

2. Nondisturbance. Lender agrees that no foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure, or other sale of the Property in connection with enforcement of the Mortgage or otherwise in satisfaction of the underlying loan shall operate to terminate the Lease or Tenant's rights thereunder to possess and use the Premises.

3. Attornment. Tenant agrees to attorn to and recognize as its landlord under the Lease each party acquiring legal title to the Property by foreclosure (whether judicial or nonjudicial) of the Mortgage, deed-in-lieu of foreclosure, or other sale in connection with enforcement of the Mortgage or otherwise in satisfaction of the underlying loan ("Successor Owner"). Provided that the conditions set forth in Section 2 above are met at the time a Successor Owner becomes the owner of the Property, the Successor Owner shall perform all obligations of the landlord under the Leases arising from and after the date title to the Property was transferred to Successor Owner, and the Lease shall continue in full force and effect as a direct Lease and agreement between the Successor Owner and Tenant upon and subject to all the terms, covenants and conditions of the Lease, and Tenant shall remain in possession of the Premises in accordance with the terms and provisions of the Lease. In no event, however, will any Successor Owner be: (a) liable for any default, act or omission of any prior landlord under the Lease (except that Successor Owner shall not be relieved from the obligation to cure any defaults which are continuing in nature, and such that Successor Owner's failure to cure would constitute a continuing default under the Lease); (b) subject to any offset or defense which Tenant may have against any prior landlord under the Lease (provided that offsets under the Lease that were properly deducted by Tenant prior to the date upon which the Successor Owner succeeds to the interest of such prior landlord shall not be subject to challenge); (c) bound by any payment of rent or additional rent made by Tenant to Landlord more than 30 days in advance except as otherwise expressly set forth in the Lease; (d) bound by any amendment or modification or waiver of any provision of the Lease made without the consent of Lender, which would reduce the lease term, rents payable, or square footage; (e) liable for the return of any security deposit or other prepaid charge paid by Tenant under the Lease, except to the extent such amounts were actually received by Lender. Although the foregoing provisions of this Agreement are self-operative, Tenant agrees to execute and deliver to Lender or any Successor Owner such further instruments as Lender or a Successor Owner may from time to time request in order to confirm this Agreement.

4. Rent Payments: Notice to Tenant Regarding Rent Payments. Tenant agrees not to pay rent more than one (1) month in advance unless otherwise specified in the Lease. After notice is given to Tenant by Lender that Landlord is in default under the Mortgage and that the rentals under the Lease should be paid to Lender pursuant to the assignment of leases and rents granted by Landlord to Lender in connection therewith, Tenant shall thereafter pay to Lender all rent and all other amounts due or to become due to Landlord under the Lease, and Landlord hereby expressly authorizes Tenant to make such payments to Lender upon reliance on Lender's written notice (without any inquiry into the factual basis for such notice or any prior notice to or consent from Landlord) and hereby releases Tenant from all liability to landlord in connection with Tenant's compliance with Lender's written instructions. All payments made by Tenant pursuant to any notice purporting to be given by or on behalf of Lender shall constitute payments made under the Lease and shall discharge Tenant's obligations under the Lease pro tanto.

5. Lender Opportunity to Cure Landlord Defaults. Tenant agrees that, until the Mortgage is released by Lender, it will not exercise any remedies under the Lease following a Landlord default without having first given to Lender (a) written notice of the alleged Landlord default and (b) the opportunity to cure such default within the time periods provided for cure by

Landlord, measured from the time notice is given to Lender. Tenant acknowledges that Lender is not obligated to cure any Landlord default, but if Lender elects to do so, Tenant agrees to accept cure by Lender as that of Landlord under the Lease and will not exercise any right or remedy under the Lease for a Landlord default. Performance rendered by Lender on Landlord's behalf is without prejudice to Lender's rights against Landlord under the Mortgage or any other documents executed by Landlord in favor of Lender in connection with the Loan.

6. Tenant's Property. Lender hereby acknowledges and agrees that all and all buildings, fixtures, furniture, and equipment whether owned or leased by Tenant or any sublessee (hereinafter called the "Tenant's Property") installed in or on the Premises, regardless of the manner or mode of attachment, shall be and remain the property of Tenant. In no event (including a default under the Lease or Mortgage) shall Lender have any liens, rights or claims in Tenant's Property whether or not all or any part thereof shall be deemed fixtures; and Lender expressly waives all rights of levy, distraint, or execution with respect to said buildings, fixtures, furniture, and equipment. Lender agrees to execute and deliver to Tenant, within ten (10) days after request therefor, any document reasonably required by Tenant in order to evidence the foregoing.

7. Miscellaneous.

- a. Notices. All notices under this Agreement will be effective only if made in writing, addressed to the address for a party provided below such party's signature, and sent by recognized overnight courier or by certified or registered mail, return receipt requested. A new notice address may be established from time to time by written notice given in accordance with this Section. All notices will be deemed received only upon actual receipt.
- b. Entire Agreement: Modification. This Agreement is the entire agreement between the parties relating to the subordination and nondisturbance of the Lease, and supersedes and replaces all prior discussions, representations and agreements (oral and written) with respect to the subordination and nondisturbance of the Lease.
- c. Binding Effect. This Agreement binds and inures to the benefit of each party hereto and their respective heirs, executors, legal representatives, successors and assigns, whether by voluntary action of the parties or by operation of law.
- d. Unenforceability. Any provision of this Agreement which is determined by a government body or court of competent jurisdiction to be invalid, unenforceable or illegal shall be ineffective only to the extent of such holding and shall not affect the validity, enforceability or legality of any other provision, nor shall such determination apply in any circumstance or to any party not controlled by such determination.
- e. Construction of Certain Terms. Defined terms used in this Agreement may be used interchangeably in singular or plural form, and pronouns cover all genders.

Unless otherwise provided herein, all days from performance shall be calendar days.

- f. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.
- g. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together constitute a fully executed agreement even though all signatures do not appear on the same document. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relive the other signatories from their respective obligations hereunder.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have signed and sealed these presents the day and year above written above.

LENDER:

By: _____
Name:
Title:

LANDLORD:

Bruce H. Patterson, Trustee
Patterson Nominee Trust

TENANT:

TOWN OF AMHERST,
By its Town Manager

Laurence Shaffer

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as _____ of _____.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

_____, SS

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared Bruce H. Patterson, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as Trustee of Patterson Nominee Trust.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

_____, SS

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared Laurence Shaffer, Town Manager of the Town of Amherst, as aforesaid, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of the Town of Amherst.

Notary Public
My Commission Expires:

APPENDIX C

CONSENT AGREEMENT

_____ (the "Lender"), having an address of _____, is the holder of that certain _____ dated _____ and recorded with the Hampshire District Registry of Deeds in Book _____, at Page _____ (the "Mortgage"), granted to Lender by _____ (the "Owner"). Lender hereby consents to and approves the Option Agreement entered into by and between the Owner and the Town of Amherst (the "Town"), a copy of which has been provided to the Lender and notice of which option is recorded with said Deeds of even date herewith, and hereby acknowledges and agrees that the Mortgage and any other security instruments securing Lender's loan on the property that is subject to the Option Agreement shall be subordinate to, and subject to, the terms and conditions of the Option Agreement. The Lender furthermore agrees that it shall enter into a Subordination, Non-Disturbance and Attornment Agreement substantially similar to the instrument attached hereto as Exhibit A if the Town exercises its option to lease the property under the Option Agreement.

By: _____
Name: _____
Title: _____

COMMONWEALTH/STATE OF _____

_____, ss

On this ___ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as _____ of _____.

Notary Public
My Commission Expires:

APPENDIX D

ESCROW AGREEMENT

This Escrow Agreement is entered into on this _____ day of _____, 2010 by and among **Marsh, Moriarty, Ontell & Golder, P.C.** (the "Escrow Agent"), having an address of 18 Tremont Street, Suite 900, Boston, MA 02108, **Bruce H. Patterson, Trustee of the Patterson Nominee Trust**, u/d/t dated April 4, 2001, recorded with the Hampshire County Registry of Deeds in Book 6217, Page 137 (the "Landlord"), having an address of 340 Montague Road, Amherst, MA 01002, and the **Town of Amherst** (the "Town"), a Massachusetts municipal corporation acting by and through its Town Manager, having an address of 4 Boltwood Avenue, Amherst, MA 01002.

Whereas, the Town and the Landlord have entered into Pre-Option Agreement dated _____, 2010, a copy of which is attached hereto as Exhibit A and incorporated herein, pursuant to which the Landlord agrees that the Landlord will, upon the satisfaction of certain conditions set forth in the Pre-Option Agreement, grant the Town an option to lease certain property owned by the Landlord on located on Montague Road, Amherst, Massachusetts and described as the "Premises" in the Pre-Option Agreement;

Whereas, the Pre-Option Agreement provides that in order for the parties to enter into an Option Agreement, the parties shall execute the Option Agreement attached to the Pre-Option Agreement and deliver the Option Agreement and certain other documents to the Escrow Agent;

Whereas, the Option Agreement provides that if the Towne elects to exercise its rights thereunder to lease the Premises, the parties shall execute the Ground Lease attached to the Option Agreement and deliver the Ground Lease and certain other documents to the Escrow Agent; and

Whereas, the parties wish to set forth herein the terms discussing the delivery of the documents and the release of such documents by the Escrow Agent.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Landlord, the Town, and the Escrow Agent, the parties hereby agree as follows:

A. Pre-Option Agreement

1. If the Preconditions stated in the Pre-Option Agreement have been satisfied and the Town elects to exercise its rights thereunder, the Town shall give written notice of such election (the "Option Notice") to the Owner and deliver to the Escrow Agent the following documents (collectively, the "Town's Option Documents"), with a copy to the Owner, on or before 4:00 p.m. on September 1, 2010 (the "Precondition Date"):

- a. A check for Forty Thousand Dollars (\$40,000.00) (the "Initial Payment") made payable to the Owner;
- b. Two (2) duplicate executed originals of the Option;
- c. An executed original of the Notice of Option;
- d. Two (2) duplicate originals of the Ground Lease; and
- e. An executed original of the Notice of Lease.

If the Town's Option Documents have not been received by the Precondition Date, the Escrow Agent shall inform the Town and the Owner of the same, and this Escrow Agreement and the obligations of the Escrow Agent hereunder shall terminate.

2. The Owner shall, within ten (10) days of the date of the Option Notice (the "Owner's Delivery Date"), deliver to the Escrow Agent, in escrow, the following signed documents (collectively, the "Owner's Option Documents"), with a copy to the Town:

- a. Two duplicate executed originals of the Option;
- b. An executed original of the Notice of Option;
- c. Two duplicate originals of the Ground Lease;
- d. An executed original of the Notice of Lease;
- e. An executed original of the Notice of Lease and the Trustee's Certificate; and
- f. Originals of the Consent Agreements, signed by all Mortgagees then having an interest in the Premises or any part thereof, if any.

If the Owner's Option Documents have not been received by 4:00 on the Owner's Delivery Date, the Escrow Agent shall inform the Town and the Owner of the same, and the Escrow Agent shall promptly return to the Town all of the Town's Option Documents, whereupon this Escrow Agreement and the obligations of the Escrow Agent hereunder shall terminate.

3. Provided that the conditions set forth in Sections 1 and 2 have been satisfied, the Escrow Agent shall, within five (5) business days from the Owner's Delivery Date, give the

Owner the check for the Initial Payment and one fully executed duplicate original of the Option, and give the Town one fully executed duplicate original of the Option, the original fully executed Notice of Option, and the original Consent Agreements.

4. The Escrow Agent shall retain the original signed Ground Lease and Notice of Lease until the Town has exercised its option to lease the Premises or the time within the Town may exercise its option has expired.

B. Option Agreement

5. If the Town shall elect to exercise its rights under the Option Agreement, the Town shall, prior to the expiration of thereof, send written notice thereof to the Owner (the "Exercise Notice") and deliver the following documents to the Escrow Agent (the Exercise Notice and the following documents are referred to, collectively, as the "Town's Delivery Documents"), with a copy to the Owner:

- a. Two duplicate originals of the executed Ground Lease, in the same form of the Ground Lease signed by the Town under the provisions of Section 1 above, with the only change from this form being the insertion of the date of execution thereof and indicating therein a lease effective and commencement date not less than 15 days and not more than 60 days from the date of the Exercise Notice;
- b. An executed original of the Notice of Ground Lease, suitable for recording with the Registry;
- c. A check issued by the Town Treasurer for the first month's Base Rent under the Ground Lease, made payable to the Owner; and
- d. Any additional item required to the provided by the Town under the Ground Lease.

7. Provided that the Escrow Agent has received the Town's Delivery Documents and the original SNDA's from the Owner, signed by any and all mortgagees having an interest in the Premises, the Escrow Agent shall inform the parties forthwith. Provided that the Escrow Agent has received the foregoing documents by 4:00 pm, the Escrow Agent shall record, on the next day that the Hampshire District Registry of Deeds is open for recording, a fully executed original of the Notice of Lease and all SNDA's; otherwise, the Notice of Lease and the SNDA's shall be recorded on the second business date. The Escrow Agent shall, within five (5) business days of receiving the Town's Delivery Documents and the SNDA's, send the Owner (i) a fully executed original of the Ground Lease, (ii) the check for the first month's Base Rent, and (iii) a copy of the recorded Notice of Lease, and shall send the Town (i) a fully executed original of the Ground

Lease and (ii) a copy of the recorded Notice of Lease and the SNDA's.

In the event that the conditions of Section 6 have not been satisfied, and/or if the Owner has not sent the Escrow Agent the SNDA's, the Escrow Agent shall return all the documents to the respective parties, and this Agreement and the Escrow Agent's obligations herein shall terminate.

8. The Town shall bear all recording costs and other fees charged by the Escrow Agent in connection with this transaction.

9. All capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Pre-Option Agreement and/or the Option Agreement, as applicable.

Executed as an instrument under seal on this _____ day of _____, 2010.

LANDLORD:

Bruce H. Patterson, Trustee
Patterson Nominee Trust

TENANT: TOWN OF AMHERST

By: _____
Laurence Shaffer, its Town Manager

ESCROW AGENT:

Marsh, Moriarty, Ontell & Golder, P.C.

By: _____
Name:

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